

Annual Report  
of  
PRIVACY COMMISSIONER  
for the year ended 30 June 2004

*Presented to the House of Representatives  
pursuant to section 24 of the Privacy Act 1993*



A.11

REPORT OF THE PRIVACY COMMISSIONER 2003-2004

---

NOVEMBER 2004

THE ASSOCIATE MINISTER OF JUSTICE

I tender my report as Privacy Commissioner for the year ended 30 June 2004.

**Marie Shroff**

PRIVACY COMMISSIONER

REPORT OF THE PRIVACY COMMISSIONER 2003-2004

# CONTENTS

<b>I. KEY POINTS</b>	<b>8</b>
<b>II. INTRODUCTION</b>	<b>9</b>
<b>III. REPORT ON ACTIVITIES</b>	<b>12</b>
<b>INTERNATIONAL DIMENSION</b>	<b>12</b>
APEC data privacy initiative	12
Cooperation with overseas privacy commissioners	12
<b>PUBLIC AWARENESS AND EDUCATION</b>	<b>13</b>
Education: seminars, conferences and workshops	13
<b>COMPLAINTS AND ACCESS REVIEWS</b>	<b>14</b>
Longstanding complaints	14
New complaints	14
Settlement of complaints	15
Mediation	15
Complaints involving access	16
Complaints involving disclosure	16
Other principles	17
Agency types	18
Top 10 respondents	18
<b>ENQUIRIES</b>	<b>19</b>
<b>HUMAN RIGHTS REVIEW TRIBUNAL</b>	<b>20</b>
This year's cases	20
Appeals etc.	21
<b>CODES OF PRACTICE AND PRIVACY ACT EXEMPTIONS</b>	<b>21</b>
Telecommunications Information Privacy Code 2003	21
Proposed Credit Information Privacy Code	22
<b>SECTION 54 AUTHORISATIONS</b>	<b>23</b>
Legislation	24
Pre-introduction	24
Post-introduction	25
<b>OTHER FUNCTIONS</b>	<b>25</b>
Cross-border information sharing	26
Consultations under official information laws	26



<b>IV. INFORMATION MATCHING</b>	<b>27</b>
The year in information matching	27
Reports to the Minister of Justice	27
Exchange of Social Security Information with the Netherlands	27
Amendment of Information Matching Rules: supplementary report	28
Courts and Criminal Matters Bill: information matching programmes	28
On-line transfer approvals	29
Growth in authorised and operating programmes	29
Changing Profile of Active Programmes	31
<b>PROGRAMME BY PROGRAMME REPORTS</b>	<b>32</b>
<i>Matches with MSD as user agency</i>	
Corrections/MSD Inmates Match	36
Customs/MSD Arrivals & Departures Match	38
IRD/MSD Commencement/Cessation Match	40
Centrelink/MSD Change in Circumstances Match	42
Centrelink (DIMIA)/MSD Periods of Residence Match	45
Customs/MSD Periods of Residence Match	47
IRD/MSD Debtors Tracing Match	49
Employers/MSD Section 11A Social Security Act Match	50
IRD/MSD Community Services Card Match	52
Educational Institutions/MSD Loans & Allowances Match	53
Netherlands/MSD Change in Circumstances Match	57
IRD/MSD(Netherlands) Tax Information Match	61
Netherlands/MSD General Adjustment Match	63
Netherlands/MSD Debt Recovery Match	66
<i>Matches with the Electoral Enrolment Centre as user agency</i>	
EEC Match Process for Unenrolled Voters Matches	67
MSD/EEC Unenrolled Voters Match	72
Citizenship/EEC Unenrolled Voters Match	73
LTSA/EEC Unenrolled Voters Match	74
MoT/EEC Unenrolled Voters Match	76
NZIS/EEC Unqualified Voters Match	77
<i>Matches with other departments as user agency</i>	
IRD/Justice Fines Defaulters Tracing Match	77
MSD/Justice Fines Defaulters Tracing Match	80
BDM/DIA(P) Passport Eligibility Match	82

**REPORT OF THE PRIVACY COMMISSIONER 2003-2004**

Citizenship/DIA(P) Passport Eligibility Match	84
Composite Results for Passports Applications Processing	85
MSD/IRD Family Support Double Payment Match	86
MoE/IRD Student Loan Interest Write-off Match (No 1)	88
MoE/IRD Student Loan Interest Write-off Match (No 2)	90
Corrections/ACC Inmates Match	91
IRD/ACC Residual Claims Levies Match	92
<b>V. OFFICE AND FUNCTIONS OF THE PRIVACY COMMISSIONER</b>	<b>94</b>
Independence and competing interests	94
Complaints	94
Education and publicity	94
Information matching programmes	95
Codes of practice	95
Legislation and policy	95
Other functions of the Privacy Commissioner include	95
Reporting	95
<b>VI. TABLES</b>	<b>97</b>
<b>VII. FINANCIAL AND PERFORMANCE STATEMENTS</b>	<b>100</b>
Governance and Accountability Statement	101
Statement of Responsibility	103
Report of the Auditor-General	104
Statement of Accounting Policies	106
Statement Specifying Financial Performance	108
Statement of Objectives and Service Performance	109
Statement of Financial Performance	117
Statement of Movements In Equity	118
Statement of Financial Position	119
Statement of Cash Flows	120
Statement of Commitments	121
Statement of Contingent Liabilities	121
Notes to The Financial Statements	122



## PART IV TABLES

Table 1: Combined Totals for the Main NDMC Programmes: 2000-2004	36
Table 2: Corrections/MSD Inmates Match 2000-2004 Results	37
Table 3: Customs/MSD Arrivals & Departures Match 2000-2004 Results	38
Table 4: Customs/MSD Arrivals & Departures Match 2003/04 Breakdown by Benefit Type	39
Table 5: IRD/MSD Commencement/Cessation Match 2000-2004 Results	40
Table 6: Section 11 Letters Issued 2001-04 Results	41
Table 7: Centrelink/MSD Change in Circumstances Match Results 2002-2004	43
Table 8: Centrelink/MSD Change in Circumstances Match s.103 Notice Results 2003/04	44
Table 9: Centrelink/MSD Periods of Residence (10% Sample) Match Results at 1 July 2004	46
Table 10: Customs/MSD Periods of Residence Match 2003/04 Results	48
Table 11: IRD/MSD Debtor Tracing Match 2000-2004 Results	49
Table 12: Employers/MSD Section 11A Social Security Act Match 2000-2004 Results	50
Table 13: Employers/MSD Section 11A Social Security Act Match 1999-2003 Comparable Results (as at 1 July 2004)	51
Table 14: Employers/MSD Section 11A Social Security Act Match Analysis of Challenges by Completed Programmes 2000-2004 (as at 1 July 2004)	51
Table 15: IRD/MSD Community Services Card Match 2002-2004 Results (as at 30 June 2004)	52
Table 16: Educational Institutions/MSD Loans and Allowances Match Results 2000-2004	55
Table 17: Educational Institutions/MSD Loans and Allowances Match VoS Request Analysis 2002-2004	55
Table 18: Educational Institutions/MSD Loans and Allowances Match Reviews of Decisions 2001-2004	56
Table 19: Netherlands/MSD General Adjustment Match 2 2003/04 Results	64
Table 20: Total EEC Unenrolled Voters Matches 2002-2004 Results	71
Table 21: Effect of Switch to New Computer System	71
Table 22: MSD/EEC Unenrolled Voters Match 2001-2004 Results	73
Table 23: DIA/EEC Unenrolled Voters Match 2001-2004 Results	74
Table 24: LTSA/EEC Unenrolled Voters Match 2003-2004 Results	75
Table 25: MOT/EEC Unenrolled Voters Match 2002-2004 Results	76
Table 26: IRD/Justice Fines Defaulters Tracing Match: Results 2001-2004	79
Table 27: IRD/Justice Fines Defaulters Tracing Match s.103 Challenges 1 January 2004 – 30 June 2004	80

REPORT OF THE PRIVACY COMMISSIONER 2003-2004

Table 28: MSD/Justice Fines Defaulters Tracing Match 2001-2004 Results	81
Table 29: MSD/Justice Fines Defaulters Tracing Match s.103 Challenges 1 January 2004 – 30 June 2004	82
Table 30: BDM/DIA(P) Passport Eligibility Match 2003-2004 Results	83
Table 31: BDM/DIA(C) Passport Eligibility Match 2003-2004 Results	84
Table 32: DIA Passport Eligibility Matches 2003-2004 Composite Results	85
Table 33: MSD/IRD Family Support Double Payment Match: 2000-2004 Results	86
Table 34: MoE/IRD Student Loan Interest Write-Off Match (No. 1) 2001-2004 Results	88
Table 35: MoE/IRD Student Loan Interest Write-Off Match (No. 1) s.103 2002-2004 Results	89
Table 36: MoE/IRD Student Loan Interest Write-Off Match (No. 2) 2001-2004 Results	90
Table 37: MoE/IRD Student Loan Interest Write-Off Matches (No. 2) 2001-2004 Results	91
Table 38: Corrections/ACC Inmates Match 2000-2004 Results (as at 30 June 2004)	92
Table 39: IRD/ACC Residual Claims Levies Match 2002-2004 Results	93

## PART VI TABLES

Table 1: Complaints Received And Closed 1999-2004	97
Table 2: Complaints Involving Access By Sector 1999-2004	97
Table 3: Complaints Involving Disclosure By Sector 1999-2004	97
Table 4: Alleged Breaches 2003/04	97
Table 5: Agency Type 2003/04	98
Table 6: Top 10 Respondents 2003/04	99
Table 7: Enquiries 1999-2004	99
Table 8: Cases Referred To Director Of Human Rights Proceedings 1999-2004	99
Table 9: Tribunal Cases And Outcomes 1999-2004	99
Table 10: Consultations With The Ombudsmen 1999-2004	99



## I. KEY POINTS

- Media and public interest in privacy issues continued at a high level with a focus on technology issues.
- Complaints received (934) were slightly higher and complaints closed considerably higher (1168 compared to 915); Complaints backlog level therefore reduced by around 22%.
- Enquiries service dealt with 6,500 calls.
- Privacy Commissioner was invited to assist Employment Court in Air New Zealand drug and alcohol testing case.
- Data matches by government departments continue to increase. There has been a rise from 18 authorised data matching programmes in 1993 to 70 in 2004, with 28 currently active.
- The increase in authorised data matching programmes been most dramatic in the last few years (from 24 in 2001 to 70 in 2004).
- The top 10 respondent agencies for complaints were: ACC (74); NZ Police (65); Ministry of Social Development (39); Baycorp Advantage (32); NZIS (26); Department of Corrections (26); CYFS (22); Telecom (11); IRD (10); Department for Courts (now Ministry of Justice) (8).
- Nineteen new privacy cases were brought to the Human Rights Review Tribunal. An additional 15 cases were pending at the start of the year. The Privacy Commissioner did not refer any cases to the Tribunal in the 2003/04 year.
- Telecommunications code finalised; work progressing well on credit information privacy code.
- Pressure on resources has impacted on the ability to comment on policies and legislation affecting privacy.
- Funding granted for a new technology team, and for senior legal capacity.
- New Commissioner took up position in October 2003.



## II. INTRODUCTION

Privacy is an economic issue, a human rights issue, a social issue, as well as a science and technology issue. My first nine months in Office has shown me that privacy and personal information protection involve wide-ranging, complex and diverse challenges which touch all of our lives. It is telling that big government and big business on the one hand are increasingly acquiring and using personal information; but on the other are increasingly devoting a substantial amount of money and effort to protecting that information. They have recognised that individual customers and citizens will vote with their custom and their feet if they do not have trust - trust that their information is being well handled and protected.

Shortly before taking up Office I attended the International Privacy Conference in Sydney in late 2003. Nearly 1,000 delegates from around 50 countries attended from the business world, from government and from data protection and privacy offices. I admit to being more than a little surprised at the level of international activity and interest in privacy issues, and at the breadth of topics covered by the conference. These include access to individual health records, DNA databases, comprehensible privacy notices for consumers, technology developments such as radio tracking devices on consumer goods, and covert filming techniques.

If any proof were needed that privacy is an economic issue, it was provided by the large attendance of business groups and their advisers at the international conference. This was a comprehensive introduction for me to the close link between privacy protection and citizen trust, especially in the context of the silent power of computers. A new and very valuable set of assets is being developed by business and government – their databases of information. How many businesses these days could operate efficiently and make a profit without their client database? How many government departments could do their jobs effectively without databases of their clients' records? This pool of information and its ability to be combined, manipulated and used is now a defining feature of big business and big government. Information about each of us, combined into “databases” has become an asset, a tradeable commodity, a temptation to those who would like to use and sometimes misuse it, as well as a target for criminals.

I believe there is considerable work to be done in developing citizen awareness, so that there is a more equal balance between agencies with huge power to gather and manipulate information, and the individuals whose information makes up those databases. This needs to be combined with citizens taking responsibility for their information. Parliament recognised this imbalance when it gave the Privacy Commissioner the role of educating and promoting awareness among New Zealanders. The pervasiveness and growing power of information technology is such that the Privacy Commissioner needs to inform and back up citizens so they can protect their personal information. I hope to develop this aspect of our work during my term in Office.

On individual complaints, I am pleased to be able to report a significant decrease in the complaints backlog of the Office - total current complaints are down by 22% - to 820 in



June 2004, from 1053 in June 2003. Some additional government funding combined with the willing response of the hard working investigating staff have allowed us to achieve this result.

Not surprisingly, the top ten agencies complained against this year are those which hold much personal information about us as individuals – ACC, Police, MSD, Baycorp, NZIS, are the top five. It is very pleasing for me as new Commissioner to find that generally these agencies are aware of their risks if they mishandle personal information – loss of trust, loss of efficiency; and of their responsibilities under the Privacy Act to develop sound policies and procedures. These days people are demanding about their rights. This is reflected in our numbers of complaints in recent times - at just under 1,000 per year, and with enquiries to our 0800 number running at around 6,500 per year.

A vital part of the work of this Office is to monitor developments affecting privacy, to comment on government policies and legislation, and to report to the Prime Minister if needed. The Privacy Commissioner can independently represent citizens' interests, when decisions are being taken by government. I believe this Office has done quality work in the past, and I am hopeful that through additional funding and the re-allocation of resources across the Office we can devote more time to this important function. Much effort of the Office has been devoted this year to the development of a robust and balanced credit information privacy code, designed to assist New Zealanders in their interaction with credit reporting agencies, while allowing this industry to use information technology to operate effectively in the marketplace.

Much activity of government and business now takes place in cyberspace. Codes of practice may increasingly be demanded by users and holders of information, to provide a "demilitarised zone" in which conflicting interests can be regulated. The Office will watch these developments both locally and internationally and respond as resources allow.

One telling indicator of cyberspace activity is the exponential increase in recent years of our data matching work - which has seen a rise from 18 authorised programmes in 1994 to 70 currently. Government has recognised the crucial nature for privacy of technology, by providing funding for a small technology team in the Office. We can then more closely monitor and advise on the individual privacy impact of technological developments, and, I hope, will also be able to provide people with more practical information about how to deal with them.

The Privacy Act is a modern piece of legislation because it is principles-based, rather than attempting to regulate detail. Openness, fairness and clarity of purpose are its themes. Much flexibility is allowed for counterbalancing interests, including the efficiency of business and government and competing social interests such as security. And at an individual level the complaints function provides a low cost, accessible way for people to challenge how their information is being used and to get redress. My predecessor, Bruce Slane, has worked hard and successfully to establish a privacy regime in New Zealand which meets international standards, addresses citizens' complaints and monitors developing privacy invasive technologies and government and business practices.

## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

---

How does the Privacy Act stand up today after 11 year of operation? A unanimous vote in Parliament passed a Privacy Act in 1993 to provide strong but flexible legislative backing to personal information protection. We joined a now large group of countries internationally who see privacy and data protection law as an essential part of a comprehensive structure of consumer and citizen protection – as essential, for example, as a Consumer Guarantees Act or a Fair Trading Act.

As new Commissioner, I believe the Privacy Act is increasingly gathering strength as a framework within which individuals and organisations who wish to deal with personal information can work in a responsible way. The dangers to privacy foreseen by a unanimous and, I think, farsighted Parliament have increasingly been manifested, and the protections required have proven their value.

The Office has been under some pressure in recent years to deal with a heavy complaints, policy and education workload. With increased funding provided I believe we can more confidently tackle some of the many issues we face. Getting privacy right is important to all of us – whether as holders of information or as individual consumers.



## III. REPORT ON ACTIVITIES

### INTERNATIONAL DIMENSION

---

#### APEC DATA PRIVACY INITIATIVE

In 2003 the Asia Pacific Economic Cooperation body (APEC) – whose members span the Pacific from Russia and Asia through to Canada and South America – set itself the ambitious task of developing a regional privacy framework. APEC recognised that lack of consumer trust and confidence in the privacy and security of on-line transactions is one factor that may prevent member countries from gaining the full benefits of electronic commerce. Common minimum standards for the protection of personal information privacy, with mechanisms to ensure that the standards are adhered to, was seen as one key to encouraging individuals to engage in e-commerce.

In early 2003, APEC's Electronic Commerce Steering Group (ECSG) established a Data Privacy Subgroup, comprising officials and experts from 10 countries. Blair Stewart, Assistant Privacy Commissioner, participated in the work of the subgroup acting as an expert adviser to the New Zealand delegation.

The first year of the project was devoted to developing a set of privacy principles. The starting point was the 1980 OECD Guidelines upon which New Zealand's Privacy Act is based. The project reached a significant milestone in February 2004 when the draft principles were presented back to the ECSG at a meeting in Santiago. By the end of the reporting year, APEC had not adopted the principles and nor had further work on associated implementation mechanisms been completed.

#### COOPERATION WITH OVERSEAS PRIVACY COMMISSIONERS

Close cooperation between privacy commissioners continued at regional level through the twice-yearly meetings of the Privacy Agencies of New Zealand and Australia plus Hong Kong (PANZA+).

The 25th International Conference of Data Protection Privacy Commissioners, held in Sydney, brought a number of world privacy experts to our region. This provided the opportunity for the Office to arrange a supporting event in Auckland. The International Workshop on Privacy Impact Assessment attracted attendance from leaders in the subject from nine countries and provided a stimulating environment to discuss a rapidly evolving privacy management technique.

## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

---

### PUBLIC AWARENESS AND EDUCATION

---

Interest in privacy-related matters from the media has been strong during the year. Over the year, 124 media enquiries were recorded. Some topics appear with regularity: the use of surveillance cameras, and issues to do with access to information held on public registers, such as the motor vehicle register. Emerging technology such as Radio Frequency Identification Devices (RFIDs) and biometrics in passports generated attention, as did various telecommunications topics such as SPAM; the use of pxt phones; recording phone calls and storage of text messages.

Two key court cases brought disparate aspects of privacy law to the fore. Air New Zealand's proposal to introduce random drug and alcohol testing of employees led to numerous enquiries from the media. The Privacy Commissioner made submissions at the hearings at the invitation of the Employment Court. She noted while it seemed that the policy could generally be operated in a manner consistent with the Act's provisions, there were potential problems under information privacy principle 1 in the random testing of employees who did not work within "safety sensitive areas".

Just prior to the Air New Zealand decision, the Court of Appeal issued its judgment in the media privacy case *Hosking v Runting*. Although the Hoskings' application to prevent publication of photographs of their twin daughters failed, the majority of the Court of Appeal found that a tort of privacy did exist in New Zealand law.

The Law Commission's report on intimate covert filming was released at the end of the reporting period. It recommended the outlawing of filming of people in "intimate situations" without their knowledge or consent and the distribution of those images. Although not limited to the use of pxt mobile phones, the new technology had highlighted gaps in the existing legal protections available to those unwittingly caught on camera. In welcoming the report, the Commissioner commented on the impact of such filming upon women and children and the fact that victims could be encouraged to make use of the free complaints process available through the Office. Formally outlawing secret filming in situations such as changing rooms should encourage victims to come forward.

### EDUCATION: SEMINARS, CONFERENCES AND WORKSHOPS

---

Workshops on privacy issues, tailored to the audience as required, are in demand from both private and public sector organisations. They are an important way of communicating to complainants and agencies the advantages of improving the handling of personal information.

Staff of the Office provided 36 workshops to a range of people in both the public and private sector. These included 12 half day workshops on the Privacy Act (eight in Wellington, three in Auckland and one in Christchurch), six half day workshops on the Health Information



Privacy Code (two in Wellington, three in Auckland and one in Christchurch) and a full day Mental Health Workshop in Auckland. In addition there were 17 tailored workshops provided to different agencies as part of their staff training. Eleven focussed on the Health Information Privacy Code and the remaining six were on the Privacy Act.

Workshops are presented by investigating officers who deal daily with complaints. They are consistently rated as very good or excellent by participants. The effectiveness of the workshops is demonstrated by the fact that several agencies routinely incorporate them into their standard staff training programmes.

## COMPLAINTS AND ACCESS REVIEWS

---

The number of complaints received this financial year was slightly higher than last year (934 compared to 928 the previous year) and the number closed was considerably higher (1168 compared to 915). See Table 1, p97

### LONGSTANDING COMPLAINTS

A comprehensive review of the complaints process in late 2002 highlighted that the Office lacked the resources to undertake the work required of it in the complaints area, resulting in a large backlog of old complaints. It was recognised that it is highly unsatisfactory both for complainants and respondents that complaints are unresolved for such a long time. Additional funding was provided, specifically targeted towards complaint resolution and, in particular, to resolution of longstanding complaints (identified as those older than 13 months old on 1 July 2003).

At the beginning of this financial year a team of three staff was therefore created to focus on resolution of longstanding complaints. At that time, there were 448 longstanding complaints, comprising 44% of all current complaints. The team's task is to close all of those complaints by 30 June 2005. I am pleased to report that 260 out of the 448 longstanding complaints were resolved by the end of this financial year.

### NEW COMPLAINTS

The Office has also this year focussed on early resolution of new complaints. This is a critical part of the management of the complaints area. On receipt of a complaint, experienced staff now identify whether it falls within jurisdiction and what issues it raises. Complainants need to be clear about the facts. Where a complaint is unclear, staff contact the complainant to ask for additional information. This helps the agency complained against to make its own inquiries and provide a quick reply. A speedy process is advantageous both to the complainant and the respondent agency. It also allows investigating staff to identify complaints which can be resolved without the need for a full investigation.

## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

---

### SETTLEMENT OF COMPLAINTS

The Office tries to secure settlement of complaints (under section 74 of the Act) and, if appropriate, an assurance against the repetition of privacy breaches. This year, investigating staff received training to help them identify cases where settlement might be possible.

Investigating staff have worked with parties to settle a number of complaints. Although some complainants seek monetary compensation, it is pleasing to note that many complaints are settled by an appropriate apology and an assurance against the action being repeated. The complaints process can help to inform and assist small businesses and agencies such as schools, medical practices and retailers who may be unaware of their responsibilities under the Act. A significant number of complaints against such agencies arise following an access request and often occur in the context of an employment dispute. This can mean that the relationships between the parties are already strained and may account for an initial lack of response to a straightforward request. Generally, we find that with our assistance, many access complaints can be resolved to the satisfaction of both parties.

### MEDIATION

The Office is increasingly using mediation as a tool in the settlement of complaints. Mediation helps respondent agencies to understand the consequences that their actions have for individuals. Likewise, when complainants realise that their complaint has been heard and recognised, they are generally willing to accept a settlement option which is realistic and reasonable.

Example of a successful mediation using an independent mediator:

*A woman had made a request to a hospital for access to her birth records. She was given these records, which were contained in her mother's birthing file. After receiving the records, the woman discovered details about her mother's physical and mental health at the time of the birth that she had not previously known. The mother made a complaint to this Office about her health information being released to her daughter. She said that the release of this information had caused considerable distress and had resulted in her daughter becoming estranged from her. We arranged for an independent mediator to meet the parties to try to resolve all of the issues, including the apparent breach of the Health Information Privacy Code. As a result, a settlement was reached and we were then able to close the file.*

Investigating staff have also successfully mediated settlements of a number of complaints. Some examples include:

*The confidential residential address of a health professional was published in a directory by her professional association. This was an error on the part of the professional body and was promptly acknowledged as such when notified to the association by this Office. The association acknowledged the significant distress caused by the disclosure and agreed to mediation as a means to settle the matter. The outcome was that the details were removed from subsequent*



*editions of the directory and from the internet directory. The complainant also accepted \$2500 which enabled her to install a security system at her home.*

*A man obtained a copy of his credit report and noticed that a credit check had been done on him by the agency at which his former wife worked. He spoke to the agency but it was unable to establish that the check had been done by her. The agency reminded staff generally about making unauthorised credit checks. Some time later the complainant discovered that a further credit check had been done on him by the agency. On this occasion, the agency accepted that the check had been made by the complainant's former wife. It took appropriate disciplinary action against its employee and paid the man \$5000 in compensation. As a result of this complaint, the agency limited the number of its employees who could access credit information.*

## COMPLAINTS INVOLVING ACCESS

The largest number of complaints we receive involve access requests for personal or health information (over 37%). There were slightly fewer complaints involving access requests this year and more complaints against private sector agencies than in any previous year. This may be attributed to better awareness of rights under the Act and to the willingness of individuals to exercise their rights.

Many access requests require review of an agency's decision to withhold documents under one or more of the withholding grounds set out in Part 4 of the Act. Some requests are made in the context of preparing a case for other proceedings, such as an employment dispute or other legal action. On receipt of a complaint involving an access request, the agency is asked to provide a copy of the documents it wishes to withhold, and to explain the grounds for doing so. Investigating staff then review the documents and the withholding grounds. If we think the information should be released to the individual, we recommend that the agency do so. I also receive a number of complaints alleging that an agency has failed to respond to an access request within the statutory time frame of 20 working days. I am disappointed that some agencies are apparently unaware of their obligations. See Table 2, p97

## COMPLAINTS INVOLVING DISCLOSURE

Complaints alleging disclosure of personal or health information comprise the second largest group of complaints (25%). Principle 11 of the Act and rule 11 of the Health Information Privacy Code place limits on the disclosure of information. Disclosure is permitted if an exception to the principle or rule applies, but an agency may decide not to disclose, even if one of the exceptions applies.

Table 3, p97 shows that the number of complaints alleging a breach of either principle 11 or rule 11 has increased slightly overall, and that there has been an increase in the number of complaints against private sector agencies and a decline in the number against public sector agencies.



## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

---

An example of a complaint alleging a disclosure of personal information:

*When a customer bought a computer on credit she was asked to provide information to establish her creditworthiness. She faxed a considerable amount of information including a photocopy of her credit card, driver's licence and personal financial arrangements to the store. Subsequently she was contacted by another customer of the store who had bought a floor display unit and found her documents in a drawer of the unit. When notified of the complaint by this Office, the agency responded promptly by making a full apology to the complainant and sending her a generous gift basket. As a result, the complaint was settled.*

### OTHER PRINCIPLES

Complaints about the accuracy of information (raising issues under principle 8 or rule 8) and requests for it to be corrected (principle 7 and rule 7) are the next largest group of complaints after access and disclosure.

A number of complaints came from individuals who, as part of a pre-employment check, had authorised collection of information about them from Police. In each case the individual's record held a "red stamp" which states:

*Police recommend this person does not have unsupervised access to young people, or more vulnerable members of society.*

On the basis of this information, their employment applications were not successful. When they complained to me, the individuals pointed out that they had not been convicted of any offence and that they considered it was unfair that their employment opportunities were limited by a notation on Police files, the accuracy of which had never been tested in a judicial process.

I acknowledge that these individuals may feel that the retention and use of this information about them is unfairly prejudicial considering that no charges were brought. However, Police vetting reports such as the "red stamp" recommendation are made, and are intended to be made, on the basis of information with a lower standard of reliability than would be required for prosecution and conviction in relation to criminal offences. Further, Police carry out vetting only for approved organisations that are responsible for providing safe care to children, the elderly, and more vulnerable members of society. It is Parliament's intention that certain types of employers may request a Police vetting of prospective employees and information held by the Police may be used to respond to a vetting request.

Some examples of complaints under other principles include:

*Following a disciplinary meeting about a child's behaviour at school, his parents became aware that the Principal's report concerning the matter had been dispatched to Board members via their children, who had been asked to take the report home in their school bags. The parents of the child felt this was unacceptable. We thought that the Board's practice did not constitute*



*a reasonable safeguard against loss or disclosure of potentially sensitive information and suggested to the Board that it should consider posting such information to Board members instead of using their children to take it home. The Board agreed to this.*

*A superannuitant changed her address without notifying the agency responsible for paying her pension. The agency lost contact with her and eventually stopped payment. The woman discovered several months later that she was no longer receiving her pension. She mistakenly believed that it was because of the operation of the Privacy Act that the agency had ceased paying her pension. She believed that the agency should have contacted her bank to obtain her new address. We explained to the woman that the agency was under no obligation to contact her bank for this purpose and, further, that the bank would not have been able to provide it with the information for reasons relating to customer confidentiality (and not the Privacy Act). The woman was advised that it is her obligation, when she changes address, to notify relevant agencies of this. The woman was advised that we were unable to take the matter further.*

*A man made a request for access to information and discovered that the government agency held incorrect information about his income. On that basis he had been denied a sickness benefit. He made a request (under principle 7) for the information to be corrected and for the correct details to be placed on his file. He then became entitled to the sickness benefit and the agency backpaid him for the months that he had not been receiving the benefit.*

Table 4, p97 lists all alleged breaches with respect to complaints received this year.

## AGENCY TYPES

The largest group of agencies complained about are in the public sector (over 35%); they hold and collect a great deal of information about individuals. Because they deal with a large number of complaints, the privacy officers in public sector agencies are familiar with this Office's processes and are aware of their statutory obligations; in most cases they are able to process complaints efficiently and expeditiously. Table 5, p98 identifies the agency types.

## TOP 10 RESPONDENTS

More complaints were received against ACC than any other agency. Many of the complaints against ACC reflect claimant dissatisfaction with its review of the entitlements of long term claimants. Eight of the agencies in the top 10 are government departments, all of which hold and process large amounts of personal information about individuals. Two private sector agencies, Baycorp Advantage and Telecom feature in the list. Table 6, p99 shows the top 10 respondent agencies. Together these agencies account for 34% of all complaints received in the last year.

## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

---

### ENQUIRIES

---

The Office maintains an 0800 enquiries line to respond quickly to people seeking advice about the Privacy Act. This year it has received almost 6,500 queries. To manage the volume of calls, callers are asked to leave a message on an answer phone. Calls are normally answered within one working day of receipt of the message. See table 7, p99

The enquiries service is a very important means of achieving understanding and acceptance of the privacy principles. Enquiries staff are highly experienced at dealing with a wide variety of issues. They do not give formal legal advice, but provide general guidance about the law and how to resolve difficulties. This can include advice about how to formulate complaints clearly. Complainants and agencies are therefore often in a better position to resolve the complaints themselves.

This year, a common theme has been the ability of employers to seek information relating to criminal convictions. Callers are often aware that Parliament has recently passed the Criminal Records (Clean Slate) Act 2004, although that legislation is not yet in force. Credit agencies and financial institutions are also frequently the subjects of calls.

The ever expanding use and development of technology is continuing to create privacy concerns, and therefore enquiries to this Office. Companies seek advice on collection, storage and security of information, and private individuals becoming more aware of the technology raise issues. For example concerns have been raised about the use of home video surveillance, both internally when there are concerns about domestic staff and externally for general security; and the fact that the camera vision range can not always be restricted to the installer's property and will often capture other's property such as next door gardens or shared driveways.

The enquiries staff received a number of calls concerning an individual's right to record a meeting they are required to attend, particularly in the context of disciplinary meetings at work or compulsory meetings with government agencies.

Other technology privacy concerns include cellphone cameras, and the ability of some agencies to use cellphone calls as a means of locating an employee. (For example, a company representative who is recorded as using a cellphone from the Waikato when supposed to be in Auckland may face disciplinary action from the employer.)

Concerns have also been expressed about vehicle GPS installed in company cars which may not be able to be turned off by the driver or de-activated. This is of particular relevance where the company car may also be driven for private use.

Continuing issues in employment include: employers demanding photos for the company website or company publications (especially when this is required after the commencement of employment and was not a pre-condition of employment); employment agencies collecting what appears to be excessive information, such as credit checks, and the collection



of passport information or driver licence information where the job does not involve any company driving or overseas travel.

The number of enquiries has dropped slightly this year. Telephone enquiries still account for the vast majority of those received but an increasing number of the mail queries are in the form of email (400, up from 311 last year). Enquiries staff still usually respond by telephone, even where the initial approach has been in writing, as this is the best way of getting a clear picture of the whole situation so that their advice can be most useful and complete.

Not all enquiries are about disputes: the enquiries team also fields queries about privacy training, and takes note of policy issues which callers wish to bring to the attention of the Office. The enquiries service operates not only as an important source of information for the complaints section of this Office, but, by identifying issues which are of concern to the public, to agencies, and to professional bodies, it is also a vital conduit of information to the policy, complaints and education staff.

## HUMAN RIGHTS REVIEW TRIBUNAL

---

The Human Rights Review Tribunal also hears proceedings under the Privacy Act.

A privacy complaint may reach the Tribunal in one of two ways. First, where the Privacy Commissioner is of the opinion that a complaint has substance but has been unable to procure a settlement, the Commissioner has a discretion to refer the matter to the Director of Human Rights Proceedings (“the DHRP”). The DHRP will look into the matter, may be able to effect a settlement, and may initiate proceedings in the Tribunal. In the year being reported upon, the Privacy Commissioner did not refer any cases to the DHRP. See Table 8, p99

Second, where the Commissioner has conducted an investigation of a complaint but has not referred it to the DHRP, an aggrieved individual may bring proceedings in the Tribunal regardless of whether the Commissioner has formed an opinion upon it or what that opinion was. In those cases, the DHRP has the right to be heard or, if he does not wish to exercise that right, the Privacy Commissioner may appear. In most cases, the DHRP does not take up that right but cedes it to the Privacy Commissioner. It has been the practice to appear and be heard in all such cases in order to assist the Tribunal. After reviewing that practice during the year, each case is now considered individually to assess whether or not appearance in the hearing by the Commissioner is warranted.

## THIS YEAR’S CASES

Some 19 new proceedings under the Privacy Act were initiated during the year under review, added to the 15 cases that were lodged previously and were still pending at the start of the year. A total of 22 cases were disposed of during the year, and a further three cases had been fully heard but the Tribunal’s decision was still awaited at 30 June 2004.

## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

---

Of the cases disposed of, seven were struck out after telephone conferences and written submissions, and six were closed or withdrawn when the parties reached settlement before a substantive hearing. In seven cases the proceedings were dismissed after hearing, and in two cases the Tribunal found an interference with privacy and awarded remedies accordingly. In those two cases it had also been the Commissioner's opinion that the actions complained of had amounted to an interference with the individual's privacy. See Table 9, p99

### APPEALS ETC.

In the year under review, three cases from the Tribunal were appealed to the High Court. All three were of Tribunal decisions given before this year, and all have now been disposed of. One of the appeals was withdrawn before substantive hearing, one confirmed the Tribunal's dismissal of the proceeding, and the final case resulted in the reduction of damages awarded.

The latter case, *Winter v Jans*, also revised the Tribunal's view on a significant issue about interpretation of the Privacy Act in cases where individuals have sought access to personal information about themselves held by an agency. The High Court held that in these cases, an interference with the individual's privacy arises where the information requested has been withheld without a proper basis. The individual does not have to demonstrate any particular level of harm caused by that withholding. This does not mean that the Tribunal has to award damages in such cases, but it does allow the Tribunal to declare that there has been an interference with privacy and to order the agency to make the withheld information available if that is appropriate.

The Tribunal is producing careful and thorough decisions that are of value to the Office and to people and agencies who have reason to study and understand the way in which the Privacy Act operates in the enormous variety of situations where it applies.

The Privacy Commissioner also appeared in a form of *amicus* role to make submissions to assist the Employment Court in a case concerning drug testing of employees in a large organisation during the year.

## CODES OF PRACTICE AND PRIVACY ACT EXEMPTIONS

---

### TELECOMMUNICATIONS INFORMATION PRIVACY CODE 2003

This code was issued in May 2003<sup>1</sup> and covers telecommunications agencies in their handling of personal information about customers and users of telecommunication services. For example, the code covers telephone companies, publishers of telephone directories, internet service providers, mobile telephone retailers and many call centres.

---

1. The code generally commenced in November 2003, with two clauses delayed until April 2005.



After the code was issued, but before it came into force, two issues were raised by the Regulations Review Committee that warranted amendment to the code. The Committee's concerns centred upon:

- the discretion granted by the code allowing telecommunications agencies to disclose to foreign law enforcement authorities
- the code's constraints upon the way searches of electronic directories could be undertaken.

The code enabled telecommunications agencies to disclose subscriber information to foreign law enforcement authorities in relation to matters that may breach foreign telecommunications laws. This had been requested by the industry. The Committee was concerned about protection of individual rights and thought that any disclosures should be routed through the Police.

Following careful consideration of the issue raised by the Committee, amendments repealed all the provisions dealing with the foreign law enforcement authorities, thus meeting the Committee's concerns. This amendment was made permanent only after discussion with some major industry players, public notification and a submission process.

The code as issued provided controls on the use of on-line directories to trace addresses in order to prevent abuse of on-line registers. The code required that searchers of, say, the "Internet White Pages", would need to give the approximate name and the approximate address. This requirement was modelled upon a privacy code in operation in the UK. The Committee was concerned that the change diminished the usefulness of the internet White Pages by making it harder to search when an approximate address was not known.

A middle way was devised on the electronic directory issue which may meet the Committee's concerns while also ensuring that subscribers do not unknowingly have their names and addresses placed on the internet. It does this by dropping the search reference requirement that had been problematic but places a new obligation upon directory publishers to ensure that affected subscribers are aware that information about them is being placed on the internet. It also requires that publishers act promptly to remove personal details from an internet directory if the subscriber withdraws an authorisation.

## PROPOSED CREDIT INFORMATION PRIVACY CODE

A proposed Credit Information Privacy Code was publicly notified and submissions sought on 8 July 2003. The proposal attracted a considerable amount of interest and more than 50 submissions by the end of 2003. Four days of hearings were held in Auckland and Wellington in March 2004 for submitters who wished to be heard personally.

The development of this code of practice has been highly resource intensive for the small policy team within the Office. This has impacted for much of the year on the Office's ability to undertake other work in the codes, legislation and general policy areas.

## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

---

Substantial progress was made during the year under review in analysing the issues raised in submissions and in developing options to satisfactorily address legitimate concerns. The code is likely to be issued in late 2004.

The following codes of practice remained in force at the end of the year:

- Health Information Privacy Code 1994
- Superannuation Schemes Unique Identifier Code 1995
- Justice Sector Unique Identifier Code 1998
- Post-Compulsory Education Unique Identifier Code 2001
- Telecommunications Information Privacy Code 2003.

In addition to the general power to issue codes of practice, the Commissioner may grant specific exemptions to agencies in certain circumstances.

## SECTION 54 AUTHORISATIONS

---

Section 54 of the Privacy Act allows the Commissioner to authorise actions that would otherwise be a breach of principles 2, 10 or 11. Section 54 gives the Privacy Act some extra flexibility by taking account of unanticipated collection, use or disclosure of information that is in the public interest or in the interests of the person concerned. It can be useful when some disclosure ought to be made in the public interest but there is a duty under the Act not to disclose, and the agency has not formulated a clear policy enabling disclosure. It can also act as a “safety valve” to address rare and unexpected problems.

In considering applications under section 54, the Commissioner must first be satisfied that the proposed action would in fact breach principles 2, 10 or 11. Many applications fail on this first point.

The Commissioner then evaluates whether, in the special circumstances of the case, any interference with the privacy of an individual that could result is substantially outweighed by either the:

- public interest in that action; or
- clear benefit to the individual concerned.

Detailed guidelines for any agency considering applying for an authorisation are available on the Privacy Commissioner’s website ([www.privacy.org.nz/comply/comptop.html](http://www.privacy.org.nz/comply/comptop.html)) or by contacting the Office.

Four applications were received during the reporting period and one authorisation was granted.

An authorisation was granted to enable law enforcement information to be used to trace the surviving relatives of war veterans who were to posthumously receive the New Zealand Operational Service Medal.



The Commissioner considered an application where a parents association wanted access to the contact details of other parents at the school in order to communicate with them. The application was declined because it appeared that the disclosure could be handled in several practical ways that would also be consistent with the privacy principles. Suggestions were made to the parents association about how that might be achieved.

Other applications from government agencies were declined on the grounds that what was proposed could be accommodated by existing exceptions to the privacy principles or appeared to be authorised by other legislation.

## LEGISLATION

---

The information privacy principles may be modified or overridden by laws passed by Parliament. It has therefore been the policy of successive governments to ensure, wherever possible, that new legislation complies with the principles in the Privacy Act.

### PRE-INTRODUCTION

The Privacy Commissioner has a statutory function to examine and report upon proposed legislation. The Office is frequently consulted by departments on proposed legislation involving personal information, before it is introduced to Parliament. Ministers who propose new legislation must draw attention in the Cabinet paper to any aspects that have significant privacy implications and provide the comments of the Privacy Commissioner where relevant.

An appropriate balance can often be struck so that government objectives can be secured without unnecessarily diminishing privacy. Where that appears not to be possible, Cabinet processes ensure that Ministers are informed of possible impacts on the privacy of individual citizens.

The Commissioner was consulted this year on a number of the bills introduced to Parliament. An example is the Criminal Procedure Bill, introduced in the last week of the year, which contains a part devoted to “criminal disclosure”. This initiative has been the subject of periodic consultation with the Office since at least 1997. Under current law, disclosure of relevant information by the prosecution to an accused person before trial is governed by a mixture of case law and the Privacy Act and official information statutes. The new statutory scheme is specially tailored for criminal trials and will stand as another statutory information access regime of constitutional importance. Consultation over the years has ranged from matters of principle (such as ensuring that existing rights are not diminished) through to issues of workability (seeking seamless access entitlements between statutory access regimes). This year the consultation was on the detail of the statutory drafting prior to the bill’s introduction.



## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

---

The Office has not been able to engage as fully in providing input on policy and legislative proposals as has been the case in previous years. The work of policy staff on the proposed credit reporting code, in particular, has meant that there has been little additional capacity to scrutinise proposed legislation.

### POST-INTRODUCTION

After a bill is introduced into Parliament, there is the opportunity to contribute further to the law making process. Pressure on resources for the last several years has meant that fewer post-introduction reports have been prepared than previously. Effort has instead been concentrated on the pre-introduction phases.

In earlier years, the number of reports to the Minister on bills was usually in the order of 6 to 8. In the last three years it has declined to just 1 or 2, with none at all this year.

During the year a special legislative report, not linked to a particular bill before Parliament, was provided to the Minister. This was a third supplement to the report on the review of the operation of the Privacy Act. This report updated earlier recommendations and raised a number of additional matters, principally of a 'fine tuning' or technical nature.

### OTHER FUNCTIONS

---

A number of functions are given to the Privacy Commissioner under enactments other than the Privacy Act. These additional statutory roles usually involve providing specialist input on privacy matters or some form of "watchdog" role. Parliament has sometimes required a public agency to consult the Privacy Commissioner when implementing a new statutory scheme in order to allay public concern or avoid privacy "teething" difficulties. Some statutes confer a review role or complaints function. This is more cost effective than creating a new review or complaints body, especially when disputes are expected to arise only rarely.

These extra functions tend to be of five types:

- scrutiny or approval of information sharing arrangements
- consultation on rule making or standard setting
- a complaints investigation role
- consultation on privacy complaints handled by other agencies
- appointment to other bodies.

Last year's annual report gave a general account of all the various functions currently conferred, and can be consulted to get a good picture of the statutory position for this year also. Two key areas of activity are:

- consultation on cross-border information sharing agreements
- consultation with the Ombudsmen on reviews under the official information laws.



## CROSS-BORDER INFORMATION SHARING

Heightened international concerns about border security have had a major impact on privacy. In New Zealand, as in many other countries, legislation has been enacted to enhance the ability of law enforcement agencies to collect, use and disclose personal information about travellers.

Private sector databases such as those held by airlines and travel agents have been made accessible to border control agencies and personal information about New Zealanders can more readily be disclosed to foreign agencies.

I remain concerned, as was my predecessor, to ensure that a proportionate response is taken to these issues and that privacy is not sacrificed unnecessarily in the pursuit of security. The imminent move to biometric passports and the possible development of a global biometric identification system covering all travellers will present new challenges for privacy in this area.

## CONSULTATIONS UNDER OFFICIAL INFORMATION LAWS

The Official Information Act 1982 and the Local Government Official Information and Meetings Act 1987 require the Ombudsmen to consult the Privacy Commissioner before forming a final view when an official information access request has been made and privacy is a possible ground for withholding information. This statutory consultation process ensures that a privacy perspective in such cases is clearly articulated. During the year, there were 32 consultations completed under the two Acts. See Table 10, p99

The majority of consultations involve a request from a distant third party, perhaps from a journalist, about events within an organisation or about the circumstances of others. On occasions, the consultations take on a more personal tinge: the requester is also an interested party; a participant in events. Many of these consultations involve the breakdown of families or personal relationships and the requester is the father or former partner. While it is common for some of the information to also be about them, and may therefore be accessible to them, there is much that attracts a high privacy interest. Unfortunately, these requests tend to be focused around suspicion and allegation. Because of the personal and inquisitive nature of the requests, there tends to be a rather low countervailing public interest in making further information available.

As in past years, employment-related requests for information have been common. Typically, this might be a request by a person who has been unsuccessful in a job application process, and wishes to receive some further information about the person or people who were appointed. This year there were also several requests relating to an individual's employment conduct. One request by a journalist was for material relating to sexual harassment allegations: the material, which consisted of confidential statements of the victim and others, raised high privacy interests. A further request related to an appointee's conduct during the selection and appointment process and the way the organisation had dealt with the subsequent investigation. Although there were significant privacy interests involved, there were also countervailing public interest factors connected to the organisation's public accountability and transparency. A public statement was released in an effort to strike a balance between these two competing interests.

## IV. INFORMATION MATCHING

The information matching section of the report is split into two parts:

The year in information matching:

- the growth in matching activity, and
- the evolving character of government information matching programmes.

Programme by programme reports. The operating programmes are reported in the following groups:

- matches with the Ministry of Social Development as user agency
- matches with the Electoral Enrolment Centre as user agency, and
- matches with other departments as user agencies.

### THE YEAR IN INFORMATION MATCHING

---

Last year, the single staff position allocated to information matching was vacant for several months. That position was filled in late July 2003 and additional funding was received in the 2004/05 Budget, which will permit the establishment of a technology team. A team leader has been appointed and recruitment for the other positions of a data matching compliance adviser, and a policy adviser (technology) has commenced. As the data matching responsibilities will now be shared, many aspects that have previously received less attention than desirable will be better served.

This is particularly important given the progress being made in e-government initiatives and the assessment and adoption of novel technologies across government, which have privacy implications. As always, the scale, complexity and variety of matching continue to increase.

### REPORTS TO THE MINISTER OF JUSTICE

---

Three formal reports were made to the Minister of Justice during the reporting period relating to information matching:

- Exchange of Social Security Information with the Netherlands, July 2003
- Amendment of Information Matching Rules: supplementary report, 13 August 2003
- Courts and Criminal Matters Bill: information matching programmes, 3 November 2003

#### EXCHANGE OF SOCIAL SECURITY INFORMATION WITH THE NETHERLANDS

In July 2003, a report was issued by the Privacy Commissioner to the Ministers of Justice and Social Services pursuant to section 19(2A) of the Social Welfare (Transitional Provisions)



Act 1990 in relation to the mutual assistance provisions in the revised reciprocity agreement on social security between New Zealand and the Netherlands.

The report addressed the adequacy of privacy protections under Netherlands law for personal information sent there about New Zealand residents. It also examined whether the programmes as agreed to were likely to comply with the provisions of the Privacy Act and particularly whether they would meet the terms of the information matching guidelines and information matching rules.

The report concluded that Netherlands privacy law did provide adequate protection and that the agreement complied with the Privacy Act. The Order in Council implementing the agreement was signed in September 2003.

#### **AMENDMENT OF INFORMATION MATCHING RULES: SUPPLEMENTARY REPORT**

The implementation of the matches used in passport application processing raised an interesting question about the application of information matching rule 6 relating to the destruction of information “that does not reveal a discrepancy”. In these matches, the Passports Office wished to retain information for audit purposes about matches where no adverse action resulted i.e. where a passport was issued.

The recommendation made was that an exemption power should be included in the information matching rule (or its successor) to empower the Privacy Commissioner to grant an approval permitting the retention of information where he or she is satisfied that there is good reason not to destroy the information and the interests of the individual concerned are not thereby prejudiced.

#### **COURTS AND CRIMINAL MATTERS BILL: INFORMATION MATCHING PROGRAMMES**

The Courts and Criminal Matters Bill was introduced into the House in May 2003 and the report on the information matching provisions contained in that Bill was issued on 3 November 2003. The Bill contained provisions for two new information matching programmes and an extension to an existing programme.

The match to be extended is the IRD/Justice Fines Defaulters Tracing match. As IRD information about individuals, such as addresses, is expected to become increasingly out-of-date, the provision would amend the Tax Administration Act 1994 to permit IRD to pass to Justice, information about a fines defaulter’s employer (name, address, and telephone number). While the intention would seem to be to enable Justice to make contact with the fines defaulter at their place of work, there would be the potential for the employer and other employees to become aware of the reason for the contact.

## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

---

The two new information matching programme proposals would address fines defaulters leaving the country. These would permit the Customs Service and the Immigration Service to provide Justice with information obtained as travellers move through normal border processing at airports. Serious fines defaulters will be subject to interception at the airport and serving of the outstanding arrest warrant. Customs will also pass information on less serious defaulters back to Justice, who will then request any information that Immigration has on the individuals, obtained from sources such as Departure/Arrival cards. That information will be used in the usual Justice procedures to trace the defaulter.

The report made three recommendations suggesting amendments to the Bill to mitigate apparent risks to privacy in the proposals.

### ON-LINE TRANSFER APPROVALS

The information matching rules prohibit the use of on-line computer connections for transferring information unless approval is obtained from the Privacy Commissioner. At the start of this year only one such approval was in effect. That approval was granted to Studylink for 12 months with a requirement that compliance with its terms be audited before any extended or replacement approval be granted. As a result of a satisfactory audit report and request from MSD, a further approval was granted for Studylink to continue to operate its secure website for communicating with Educational Institutions another three years.

This year also saw seven new requests for approval of the use of on-line transfers of personal information in an information matching programme, bringing the total approvals granted this year to eight. The new approvals requested and granted this year are:

- BDM/DIA(P) Passport Application Processing Match
- DIA(Citizenship)/DIA(Passports) Passports Application Processing
- Centrelink (DIMIA)/MSD Periods of Residence Match
- Customs/MSD Periods of Residence (CUSMOD) Match
- BDM/DIA (C) Citizenship (by descent) Application Processing
- Customs/MVTR Importers Match (s.121 Motor Vehicle Sales Act 2003)
- MoT/MVTR Sellers Match (s.123 Motor Vehicle Sales Act 2003).

### GROWTH IN AUTHORISED AND OPERATING PROGRAMMES

Figure 1 (page 30) illustrates the number of authorised and operating information matching programmes. The growth since 2000 is especially striking. New programmes often take years to commence operating after legislative authorisation and therefore the full effect of the doubling in authorisations has not yet been fully felt in the growth of operating programmes.

Several new programmes completed their legislative stages during the year:

- Netherlands/MSD Change in Circumstances Match
- IRD/MSD (Netherlands) Tax Information Match
- Netherlands/MSD General Adjustment Match
- Netherlands/MSD Debt Recovery Match.



FIGURE 1: AUTHORISED AND OPERATING INFORMATION MATCHING PROGRAMMES

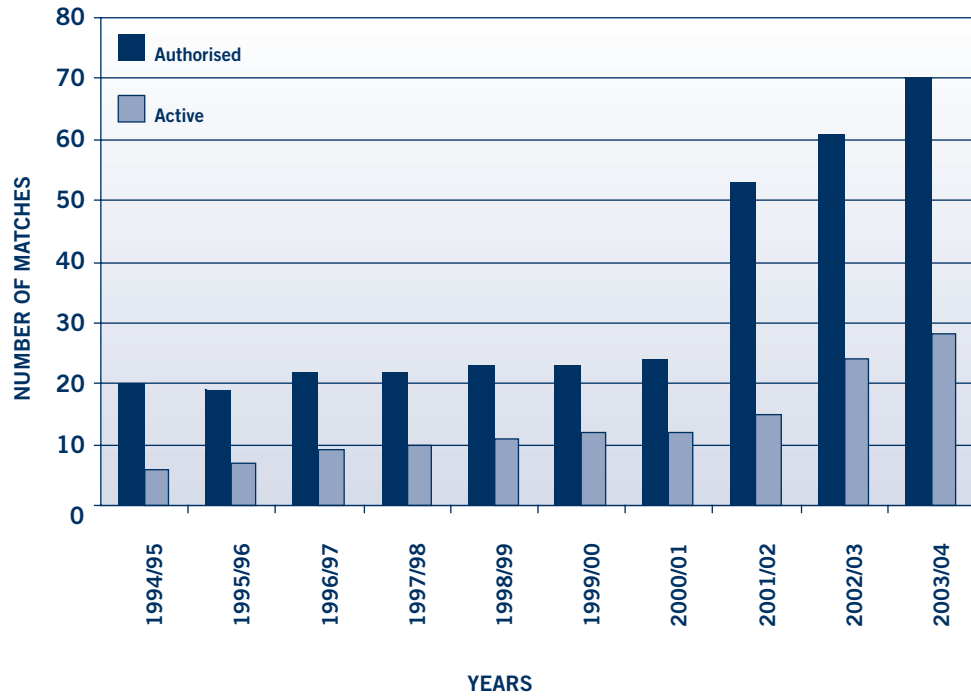
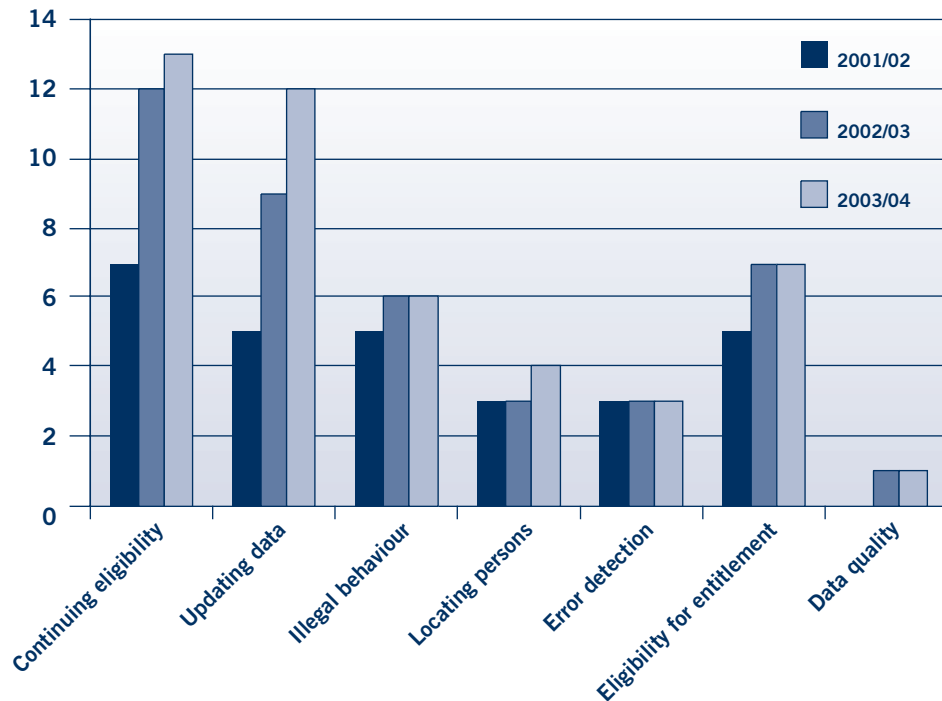


FIGURE 2: CLASSIFICATION OF DATA MATCHING ACTIVITIES BY NUMBER



## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

---

These were authorised through an Order in Council pursuant to s.19D(3)(b) of the Social Welfare (Transitional Provisions) Act 1990 in September 2003.

- BDM (Births)/ACC Benefit Eligibility Match
- BDM (Marriages)/ACC Benefit Change of Name Match
- BDM (Deaths)/ACC Identify Deceased Claimants.

These were authorised by the Births, Deaths, and Marriages Amendment Act 2003 in November 2003.

- Corrections/NZIS Imprisoned Aliens Match was authorised by the Corrections Act 2004 in June 2004.
- MSD/IRD Family Income Assistance Match was authorised by the Taxation (Working for Families) Act 2004 in June 2004.

Four new programmes began operation this year:

- Netherlands/MSD Change in Circumstances Match
- Netherlands/MSD General Increase Match
- Netherlands/MSD Debt Recovery Match
- IRD/MSD (Netherlands) Tax Match.

## CHANGING PROFILE OF ACTIVE PROGRAMMES

---

Each operating programme is classified by one or more of eight primary purposes<sup>1</sup>. The currently active programmes can be characterised as:

- **confirmation of eligibility or continuing eligibility** for a benefit programme, or compliance with a requirement of a programme – 15 programmes
- **updating of data** in one set of records based on data in another set – 11 programmes
- **detection of illegal behaviour** by taxpayers, benefit recipients, government employees etc (e.g. fraudulent or multiple claims, unreported income or assets, impersonation, omissions, unauthorised use, improper conduct, conflict of interest) – 7 programmes
- **identification of persons eligible for an entitlement** but not currently claiming that entitlement (this might be a monetary benefit, such as medical subsidies available to a Community Services Card holder, or a right such as the ability to cast a vote as in the case of the unenrolled voters matches) – 9 programmes
- **detection of errors** in programme administration (e.g. erroneous assessment of benefit amounts, multiple invoicing) – 3 programmes
- **location of persons** with a debt to a government agency – 4 programmes
- **data quality audit** – 1 programme
- **monitoring** of grants and contract award processes – 0 programmes.

---

<sup>1</sup> As each programme may have more than one purpose, the following breakdown numbers do not add up to 28.



The graph (Figure 2, page 30) demonstrates recent trends towards more programmes that are designed to improve the operation of existing business functions by facilitating continuing eligibility verification and updating data already held. There is also a smaller steady growth in the core group of programmes that seek to identify illegal behaviour. Next year, growth is expected in the data quality category as the first of the matches using information from the deaths register goes live. We also expect that the first matches in the occupational licensing area, those related to the activities of the Registrar of Motor Vehicle Traders, will become active in 2004.

One striking characteristic of the MSD/IRD Family Income Assistance Match (authorised in June 2004) is that it is the first where each agency will be participating as both information source and information user (a “two way match”).

While the purposes that public agencies find for information matching continue to expand, the newer matches typically target a smaller segment of the population than the more established matches and have perhaps less dramatic results. For example, the long-standing Customs/MSD Arrivals and Departures match processed nearly 8 million records from Customs this year, while the IRD/MSD Commencement/Cessation Match established more than \$23 million in overpayments. In contrast, the Citizenship/EEC Unenrolled Voters match, which targets new citizens to invite them to enrol to vote, processed only 20,834 records and achieved 352 additional enrolments. Changes in information technology have meant that it is possible for data matching to be cost effective on a smaller scale than was previously the case. This may represent some enlarged risk to privacy if all government held databases come to be seen as “fair game” for all manner of matching initiatives. The information matching guidelines remain a sound set of criteria for trying to distinguish the justifiable matching from the unjustified with cost-benefit a reasonably good measure for continued operation.

## PROGRAMME BY PROGRAMME REPORTS

---

### INTRODUCTION

We are required by s.105 of the Privacy Act to report annually on each authorised programme carried out in that year. This year’s report covers 28 operating matches, up from the 24 operating last year.

Each programme bears the names of the specified agencies involved followed by words that indicate the programme’s function or scope. The agency whose role is principally to provide information is named first. The agency making use of the discrepancies produced by the match is named second. For instance, in the ‘IRD/MSD Commencement/Cessation Match’ IRD is the ‘source agency’ and MSD the ‘user agency’. This brief description, ‘Commencement/cessation’ indicates something of its nature and distinguishes it from the ‘debtors tracing’ match involving the same agencies.



## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

---

The following abbreviations and acronyms are used:

<b>ACC</b>	Accident Compensation Corporation
<b>AIMOS</b>	Automated Information Matching Operating System (new NDMC computer system)
<b>BDM</b>	Registrar of Births, Deaths and Marriages (located within the Identity Services Group of DIA)
<b>Citizenship or DIA(C)</b>	NZ Citizenship Office (located within the Identity Services Group of DIA)
<b>Collect</b>	Ministry of Justice Collections Unit main database
<b>Corrections</b>	Department of Corrections
<b>CSC</b>	Community Services Card
<b>Customs</b>	NZ Customs Service
<b>CusMod</b>	Customs computer system used in the clearance and monitoring of passengers passing through international airports
<b>DIA</b>	Department of Internal Affairs
<b>DIMIA</b>	Department of Immigration & Multicultural & Indigenous Affairs (Australia)
<b>DMCA</b>	Data Matching Compliance Adviser
<b>DRS</b>	Deal Reporting System (Ministry of Justice)
<b>EEC</b>	Electoral Enrolment Centre (a business unit of NZ Post Ltd)
<b>IMPIA</b>	Information Matching Privacy Impact Assessment
<b>IRD</b>	Inland Revenue Department
<b>Institution</b>	Education service provider
<b>Justice</b>	Ministry of Justice
<b>MoE</b>	Ministry of Education
<b>MoH</b>	Ministry of Health
<b>MoT</b>	Ministry of Transport
<b>MSD</b>	Ministry of Social Development
<b>NDMC</b>	National Data Match Centre of MSD
<b>NDMS</b>	National Data Matching System (Old NDMC system)
<b>NZIS</b>	NZ Immigration Service (a division of the Department of Labour)
<b>OLEV</b>	DIA system used in passports processing
<b>Passports or DIA(P)</b>	NZ Passports Office (located within Identity Services Group of DIA)
<b>SVB</b>	Netherlands Sociale Verzekeringsbank
<b>SWIFTT and SAL</b>	MSD databases for beneficiaries and students respectively
<b>TMS</b>	Trace Management System (Ministry of Justice)
<b>TRACE</b>	Ministry of Justice data matching software (in development)
<b>UCVII</b>	Unified Customer View system that provides access to records in MSD's SWIFTT database
<b>VoS</b>	Verification of study



The reports are set out in the following order:

*Matches with MSD as user agency*

1. Corrections/MSD Inmates Match
2. Customs/MSD Arrivals/Departures Match
3. IRD/MSD Commencement/Cessation Match
4. Centrelink/MSD Change in Circumstances Match
5. Centrelink (DIMIA)/MSD Periods of Residence Match
6. Customs/MSD Periods of Residence Match
7. IRD/MSD Debtors Tracing Match
8. Employers/MSD Section 11A Social Security Act Match
9. IRD/MSD Community Services Card Match
10. Educational Institutions/MSD Student Loans & Allowances Match
11. Netherlands/MSD Change in Circumstances Match
12. IRD/MSD(Netherlands) Tax Information Match
13. Netherlands/MSD General Adjustment Match
14. Netherlands/MSD Debt Recovery Match

*Matches with the Electoral Enrolment Centre as user agency*

15. MSD/EEC Unenrolled Voters Match
16. Citizenship/EEC Unenrolled Voters Match
17. LTSA/EEC Unenrolled Voters Match
18. MoT/EEC Unenrolled Voters Match
19. NZIS/EEC Unqualified Voters Match

*Matches with other departments as user agency*

20. IRD/Justice Fines Defaulters Tracing Match
21. MSD/Justice Fines Defaulters Tracing Match
22. BDM/DIA(P) Passport Eligibility Match
23. Citizenship/DIA(P) Passport Eligibility Match
24. MSD/IRD Family Support Double Payment Match
25. MoE/IRD Student Loans Interest Write-Off Match (No 1)
26. MoE/IRD Student Loans Interest Write-Off Match (No 2)
27. Corrections/ACC Inmates Match
28. IRD/ACC Residual Levies Match

We have reported only on the 28 programmes that have operated this year. This accounts for fewer than half of the number of authorised programmes which stood at 70 on 30 June 2004. For a brief description of most of the other authorised programmes that have not commenced operation or that have been discontinued, please see the 2001/02 annual report.

## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

---

### *Matches with MSD as user agency*

MSD operates 14 matches from several units of the department. They are:

- NDMC – programmes 1-3 below (and programmes 17 and 20 as source agency)
- International Services – programmes 4-6 and 11-14
- District Benefit Control Units – 7 and 8 (MSD head office is also involved in programme 8)
- National Community Card Centre – programme 9
- StudyLink – programme 10.

## NDMC OPERATIONS

---

The National Data Matching Centre (NDMC) operates three large matches for MSD that identify a significant amount of benefit overpayment.

The new case management system for NDMC, the Automated Information Matching Operating System (AIMOS), went live on 17 November 2003. All existing data on the National Data Matching System (NDMS) was migrated to the new system and reporting this year is from both AIMOS and NDMS. As AIMOS is based on client cases rather than being based on separate benefit or source agency records as NDMS was, reporting on the three NDMC matches this year is somewhat complex. In order to enable year-to-year comparisons, the data is reported for both records and cases (clients).

Implementing a major new system has meant that NDMC has not been able to process as many cases this year. In addition, there has been an increase in the number of cases that were not resolved when the statutory time permitted for that activity had expired. NDMC reports that they have put significant effort into staff training and process improvement during this period in order to address issues that arose during the implementation. We understand that these issues have been resolved.

On the positive side, while a match run is being loaded into AIMOS, the records are automatically screened to eliminate those matches that do not require manual processing to be marked as “legitimate”. AIMOS has also resulted in a greatly increased production of letters to clients because letters are automatically generated rather than having to be manually triggered by a client services representative. AIMOS now stores a digital image of each letter printed, which provides an audit record of the letter (rather than being limited to a re-generated version of the letter). We see these as positive developments for an important group of programmes.

The costs of operating the NDMC have again been reported in global terms as opposed to being broken down programme by programme.



TABLE 1: COMBINED TOTALS FOR THE MAIN NDMC PROGRAMMES: 2000-2004				
	2000/01	2001/02	2002/03	2003/04
Overpayments established	\$34,772,993	\$35,849,101	\$32,899,785	\$28,981,506
Value of penalties applied	\$1,502	\$16,706	\$15,896	\$26,846
Number of penalties applied	9	34	48	78
Cost of matching operation	\$6,110,145	\$7,877,057	\$7,019,539	\$9,776,821
Debt recovery costs <sup>1</sup>	\$1,102,517	\$1,087,665	\$1,941,918	\$1,790,496
Debts recovered	\$10,422,889	\$14,208,910	\$13,732,989	\$11,732,206

## 1. CORRECTIONS/MSD INMATES MATCH

Information matching provision	Penal Institutions Act 1954, s.36F
Year authorised	1991
Commencement date	April 1995
Match type	<ul style="list-style-type: none"> <li>• Confirmation of continuing eligibility</li> <li>• Detection of illegal behaviour</li> <li>• Detection of errors</li> </ul>

**Purpose:** This match is designed to detect people who are receiving income support payments while imprisoned and are thereby ineligible for such payments.

**System:** The programme operates by a weekly transfer of information about all newly admitted inmates from the Department of Corrections to MSD. The information given to MSD includes names (including known aliases), date of birth, date of imprisonment and name of prison.

The information is compared by name and date of birth. Matched individuals are sent a notice advising them that, unless they produce proof to the contrary, the benefit that they are receiving from MSD will cease and any overpayment found to have been made will be established as a debt to be repaid to MSD. Notices are sent to the beneficiary at their home address with a duplicate addressed to the prison.

1. Debt recovery cost is an estimate provided by MSD that applies only to the non-current debt recovery activity, i.e. obtaining payment of debts owed by individuals who are not currently receiving any social welfare benefit. We assume that the cost of recovering debts by deduction from current benefit payments is a much cheaper process than pursuing the non-current debtors.

## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

### 2003/04 RESULTS

TABLE 2: CORRECTIONS/MSD INMATES MATCH 2000-2004 RESULTS					
		2000/01	2001/02	2002/03	2003/04
Number of runs		51	51	50	50
Number of records compared		74,331	82,768	89,061	96,250
Matches	cases				13,811
	records	24,639	24,228	23,370	24,637
Legitimate records	cases				6,766
	records	16,706	17,189	16,839	17,597
Notices of adverse action issued	cases				7,052
	records	7,813	7,164	6,512	7,061
Debts established (number)	cases				3,762
	records	4,094	4,854	3,699	3,762
Overpayments established		\$2,238,017	\$2,799,211	\$1,751,871	\$1,861,398
Challenges		44	44	23	42
Challenges successful		25	28	19	32

While the number of records compared has steadily increased since 2000/01, other measures, particularly the numbers of challenges and successful challenges, have been relatively stable.

“Legitimate records” plus “notices of adverse action taken” do not equal “number of positive matches” due the fact that files may be received in one reporting year but action not taken until the next.

On the basis of the information supplied we are satisfied that this programme has generally been conducted in accordance with the requirements of ss.99 to 103 of the Privacy Act and the information matching rules.



## 2. CUSTOMS/MSD ARRIVALS & DEPARTURES MATCH

Information matching provision	Customs and Excise Act 1996, s.280
Year authorised	1991
Commencement date	June 1992
Match type	Confirmation of continuing eligibility

**Purpose:** The purpose of this match is to detect persons who leave or return from overseas while receiving a social security benefit.

**System:** Once a week Customs sends to MSD a data tape of passenger arrivals and departures extracted from the CusMod database. The information is compared with MSD's database of beneficiaries by name, date of birth and gender. A full description of the operation of the match can be found in last year's annual report.

### 2003/04 RESULTS

TABLE 3: CUSTOMS/MSD ARRIVALS & DEPARTURES MATCH 2000-2004 RESULTS				
	2000/01	2001/02	2002/03	2003/04
Runs	53	52	52	52
Records received from Customs	6,719,388	6,685,465	6,961,136	7,786,858
"Positive" matches	29,760	24,841	24,410	29,327
Strike rate (positive matches/records received)	0.44%	0.37%	0.35%	0.38%
Legitimate records (no adverse action taken)	8,695	10,551	11,562	16,665
Notices of adverse action issued	20,304	14,577	13,310	12,667
Overpayments established (number)	16,843	9,773	10,110	7,831
Total debt established <sup>1</sup>	\$8,263,699	\$4,501,003	\$4,954,532	\$4,106,714
Challenges	99	82	63	80
Challenges successful	72	69	48	66

The changes noted last year as a result of a policy change have continued: the proportion of "legitimate" cases to the positive matches increased again this year reflecting larger numbers of clients entitled to income support while overseas. The slight increases in challenges, both successful and unsuccessful, still leave those measures lower than in 2001/02 when there was a smaller number of records matched. NDMC have assured us that while the recording of challenges is a manual process, it is accurate.

The total amount of debt established has dropped by 17% this year and numbers of overpayments established are also down. The policy change mentioned above may be a contributor: while there was a 20% increase in positive matches, there was also a 44% increase in records identified as legitimate and nearly 5% fewer notices of adverse action

<sup>1</sup> Overpayments are the number of cases where an individual received a payment when not entitled to do so. The total debt established includes overpayments and any penalties assessed.

**REPORT OF THE PRIVACY COMMISSIONER 2003-2004**

issued. The picture should be clearer next year when AIMOS will have been operating for the full period.

Table 4 shows the breakdown of overpayments and debts by benefit type. The general ranking is fairly consistent from year-to-year with unemployment topping the list, followed by the domestic purposes benefit. This year the numbers for training benefits have not been broken out from the unemployment benefits of which they are a part. There were no superannuitants with overpayments established against them this year. The absence of superannuitants is expected as a result of the relaxed policy mentioned.

**TABLE 4: CUSTOMS/MSD ARRIVALS & DEPARTURES MATCH  
 2003/04 BREAKDOWN BY BENEFIT TYPE**

Benefit type	Number	Total overpayments \$	Median overpayment \$
Unemployment	6,260	\$2,303,221	\$323
DPB	1,054	\$1,452,427	\$1,541
Invalids	223	\$181,525	\$434
Sickness	126	\$58,990	\$429
Widows	123	\$69,963	\$358
Orphans & UCB	45	\$40,589	\$432
Superannuation	0	0	0
Total	7,831	\$4,106,714	Not recorded

The programme continues to yield significant results in detecting overpayments that are unlikely to be picked up by other means, and it continues to justify the resources used in operating it.

On the basis of the information supplied we are satisfied that this programme has generally been conducted in accordance with the requirements of ss.99 to 103 of the Privacy Act and the information matching rules.



### 3. IRD/MSD COMMENCEMENT/CESSATION MATCH

Information matching provision	Tax Administration Act 1994, s.82
Year authorised	1991
Commencement date	March 1993
Match type	<ul style="list-style-type: none"> <li>• Detection of errors</li> <li>• Confirmation of continuing eligibility</li> <li>• Detection of illegal behaviour</li> </ul>
Unique identifiers	Tax file number

**Purpose:** The IRD/MSD Commencement/Cessation Match is designed to detect those who are receiving a benefit and working at the same time.

**System:** The programme operates by an information exchange between IRD and MSD approximately six times a year. A full description of the operation of the match can be found in last year's annual report.

Individual names are selected for the programme in one of three ways:

- individuals who stopped receiving a benefit in the period since the last match
- nomination by an Area Benefit Control Team because of some suspicion
- one-sixth random selection of current MSD clients.

This last group will be a different sixth for each match per year.

#### 2003/04 RESULTS

TABLE 5: IRD/MSD COMMENCEMENT/CESSATION MATCH 2000-04 RESULTS				
	2000/01	2001/02	2002/03	2003/04
Runs	5	6	4	6
Records compared	380,418	346,459	229,224	305,473
Number of matches	– By case			77,729
	– By record	195,140	172,063	125,139
Legitimate records	– By case			51,117
	– By records (A)	108,538	193,610	115,275
Notices of adverse action	– By case			25,570
	– By record	30,557	37,453	27,337
Debts established	– By case			13,014
	– By records (B)	16,843	16,709	14,866
Overpayments <sup>1</sup> established (C)	\$24,271,276	\$28,565,593	\$26,193,381	\$23,013,393
Challenges – cases	707	710	598	896
Challenges successful	239	288	166	118
Percentage of debts established to legitimate records (B/A)	15.5%	8.6%	12.9%	14.0%
Vaule of overpayments per legitimate record (C/A)	\$223.62	\$147.54	\$227.23	\$209.10

<sup>1</sup> Debts established include overpayments established plus any penalties or adjustments incurred.



**REPORT OF THE PRIVACY COMMISSIONER 2003-2004**

This year the normal difficulty in comparing figures across years is compounded by the switch to AIMOS and reporting by both records and cases. Each year, some cases will be identified in one reporting period but not fully actioned until sometime in the following reporting period. While the total value of overpayments and the average value of overpayments per legitimate record are down slightly this year, they are not out of step with last year. And the percentage of records with debts established against them compared to the number of legitimate records is up from last year. Similarly, there have been fewer successful challenges recorded despite more challenges being recorded. This would suggest that whatever disruptions the AIMOS implementation caused, NDMC operations appear to have coped well. We will be interested in the picture that emerges next year when AIMOS will have been in operation for the full reporting period.

MSD now reports on an additional process of sending letters to clients under s.11 of the Social Security Act following expiry of the challenge period required by s.103 of the Privacy Act. Notices under s.103 advise matched individuals that their information has been identified as the result of an authorised programme and gives them time in which to challenge the taking of action. The s.11 letters which follow, if there is no successful challenge, request employment details from the client. The single letter to the client may cover multiple employers and multiple periods of employment with any employer. This gives the client a further opportunity to respond before MSD contacts the client's employer(s). Employers may be sent more than one request for information before MSD receives a response, or if the response is incomplete or MSD requires further clarification. As an individual client may have multiple employers and multiple periods of employment with any of those employers, the number of first letters sent out to employers will normally exceed the number of s.11 letters sent to clients.

<b>TABLE 6: SECTION 11 LETTERS ISSUED 2001-04 RESULTS</b>			
	<b>2001/02</b>	<b>2002/03</b>	<b>2003/04</b>
S.11 letters issued	0	17,524	19,999
First requests made to employers	29,539	19,539	32,426
All requests made to employers	33,813	22,955	41,574

On the basis of the information which has been supplied, we are satisfied that this information matching programme has been conducted in accordance with ss.99 to 103 of the Privacy Act and the information matching rules.



#### 4. CENTRELINK/MSD CHANGE IN CIRCUMSTANCES MATCH

Authorising provisions	Social Welfare (Transitional Provisions) Act 1990, ss.19C and 19D and Social Welfare (Reciprocity with Australia) Order 2002, Article 18 <sup>1</sup>
Year authorised	2002
Commencement date	2002
Match type	<ul style="list-style-type: none"><li>• Confirmation of eligibility and continuing eligibility</li><li>• Updating of data</li></ul>
Unique identifiers	Australian and NZ social welfare numbers
On-line transfers	Yes

**Purpose:** This match is the automated transfer of applications for benefits and pensions and advice of change in circumstances between Centrelink (the Australian federal government agency administering social welfare payments) and MSD.

**System:** Of the three matches that are run in conjunction with Centrelink (matches 4, 5 and 6), this can be considered as the basic match. It is the only one of the three matches that directly results in any adverse action being taken. The other two matches are used to acquire information that must be fed through this match before any adverse action is initiated. This can be seen in the very different types of results reported for each of these three matches.

This match was described in detail in last year's annual report. It is used in two ways: initially to establish eligibility and coordinate records between Centrelink and MSD, and once those links are established, for the processing of global changes (standard pension rates, for example) and changes specific to individuals.

The information included in this transfer consists of any change in client circumstances:

- name
- address
- marital status, spouse or partner
- bank account details
- death of spouse or partner
- residential status
- suspensions and reason for suspension
- cancellation and reason for cancellation
- grant or changes of rate of any third country pension
- rate of benefit or pension payable (notional Australian benefit rate, actual rate and rate excluding third country pension, as required).

<sup>1</sup> Although not information matching provisions listed in Schedule 3 of the Privacy Act, the matches operated under these provisions are required to be treated as if they were authorised information matching programmes for most purposes. For example, we are required to report on the programme in the annual report as Privacy Act, s.105, applies to the programmes – see Social Welfare (Transitional Provisions) Act 1990, s.19D(3)(e).

## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

As part of the establishment of a link between the MSD and Centrelink systems, MSD notifies each New Zealand applicant of the link that has been created, enabling them to correct any mismatch and confirm their entitlements. This notice, under s.19D of the Social Welfare (Transitional Provisions) Act, serves most of the same functions as a s.103 notice of adverse action under the Privacy Act for the purposes of these three matches.<sup>2</sup> Individuals are notified by letter of subsequent changes after they are implemented.

### 2003/04 RESULTS

During the year, the automated generation of s.103 letters began, and other operations relating to change of rate, change of third country pension, and general adjustments have been automated. Other change in circumstances processes are conducted manually.

Table 7 below provides information on the match runs for this reporting period and corrected information for last year. It was discovered that a match run in July 2003 had been included in the totals reported last year.

TABLE 7: CENTRELINK/MSD CHANGE IN CIRCUMSTANCES MATCH RESULTS 2002-04		
	2002/03 Totals	2003/04 Totals
Transactions received from Australia	8,997	69,167
Transactions purged – no match	182	1,016
Transactions actioned by MSD <sup>3</sup>	8,815	68,151
Mismatches by CRN <sup>4</sup>	307	640
Exceptioned records	6,100	41,057
Automatically updated records	0	25,446
Transactions purged – “invalid s.103”	2,891	1,726
% purged – “invalid s.103”	32.8%	2.53%
Transactions sent to Australia <sup>5</sup>	11,253	48,216

As reported last year, system problems adversely affected the operation of this match because s.103 notices had to be manually generated and very high numbers of apparently matched records were purged because notices could not be processed within the 28-day period allowed. Those system problems were resolved by September 2003. Despite this problem affecting the start of the current reporting year, the proportion of transactions that had to be purged because their s.103 period lapsed has dropped significantly from 32.8% to 2.53%. It is also pleasing to see that mismatches by CRN have dropped as a proportion of the transactions actioned by MSD from 3.5% to less than 1%.

2 Section 103(1) and (2) of the Privacy Act do not apply directly to this programme. The operative provisions are Social Welfare (Transitional Provisions) Act 1990, s.19D(3)(c) and (d) (see also s.19D(4) to (4C)). These are similar to s.103(1) and (2). Section 103(3) and (4) are applied directly.

3 Those for which a match was successful (client numbers and dates of birth matched exactly) and the transaction was processed.

4 These are records for which the Centrelink number does not match that on MSD's records.

5 Australian authorities have the responsibility of processing and protecting the data for these transactions.



This year information has been provided on the s.103 notice procedures. Table 8 shows those results.

<b>TABLE 8: CENTRELINK/MSD CHANGE IN CIRCUMSTANCES MATCH S.103 NOTICE RESULTS 2003/04</b>	
	<b>2003/04 Totals</b>
Individuals who were sent s.103 notices in period	3,743
s.103 notices sent	3,978
Permission assumed	3,958
Permission confirmed	22
Challenges received	0
Successful challenges	0

It is unusual for a match to report no challenges to s.103 notices. MSD report that the identity verification processes used by MSD and Centrelink when an individual applies for a benefit, are sufficiently stringent that incorrect matches (where two individual's records are confused) are extremely rare.

There are more s.103 notices issued in any year than individuals subject to the match because some will receive a notice for an individual change of circumstance as well as a notice for a general rate change. As well, the transactions mismatched on CRN will be investigated and, if a correction is entered, a second s.103 notice will be generated.

We are satisfied on the basis of the information supplied, that this programme has generally been conducted in accordance with the requirements of ss.99 to 102 of the Privacy Act, s.19D of the Social Welfare (Transitional Provisions) Act (which substitutes for s.103(1) and (2)) and the Social Welfare (Reciprocity with Australia) Order 2002 (which substitutes for the information matching agreement and the information matching rules).

REPORT OF THE PRIVACY COMMISSIONER 2003-2004

**5. CENTRELINK (DIMIA)/MSD PERIODS OF RESIDENCE MATCH**

Authorising provisions	Social Welfare (Transitional Provisions) Act 1990, ss.19C and 19D and Social Welfare (Reciprocity with Australia) Order 2002, Article 18
Year authorised	2002
Commencement date	July 2002
Match type	<ul style="list-style-type: none"> <li>• Confirmation of continuing eligibility</li> <li>• Data quality</li> </ul>
Unique identifiers	Australian and NZ social welfare numbers
On-line transfers	Yes

**Purpose:** This match is one of two that enable MSD to confirm periods of residence outside New Zealand for applicants for New Zealand benefits and pensions who live in New Zealand. The matches are of two types:

- (a) where a person is unable to be precise about their periods of residence at the time of application<sup>1</sup>
- (b) to test the accuracy of information provided by applicants by matching a sample 10% of applicants for specified benefits and pensions.

This match is of the second type. While the request is made by MSD to Centrelink, Centrelink in turn requests the information from the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA).

**System:** The major thrust for this match is to ensure the validity of the data in MSD files. However, the information collected in this process is fed into the system for the Change of Circumstances match, which may result in a discrepancy being noted and adverse action being taken as a result.

Information sent to Australia is:

- a) client identifier
- b) family name
- c) first name
- d) other given name
- e) date of birth
- f) gender
- g) alias indicator.

DIMIA (through Centrelink) returns information on periods of residence contained in their files that appears to relate to those individuals.

<sup>1</sup> See Customs/MSD Periods of Residence Match.



2003/04 RESULTS

As reported last year, Centrelink processes these requests manually and has been unable to handle a full 10% sample. Accordingly, in March 2003, MSD reduced the sample size to 5% but it appears that Centrelink are unable to process even this level of requests and files sent from March 2004 were still with Centrelink at the end of this reporting period.

We expressed concern last year that processing delays at both Centrelink and MSD might result in breaches under s.101 of the Privacy Act - requiring the destruction of matched records within certain time limits. We are assured by MSD that they act as soon as they receive information from Australia about Australian eligibility, and that s.101 breaches have not occurred.

The following table shows the results of 18 sample sets sent to Australia since 1 July 2002. Because of the time it has taken Centrelink to process the requests, processing is complete on only 10 sample sets.

TABLE 9: CENTRELINK/MSD PERIODS OF RESIDENCE (10% SAMPLE) MATCH RESULTS AT 1 JULY 2004			
		2002/03 (incomplete)	2003/04 (incomplete)
Sample sets sent to Australia		12	6
Sample sets received from Australia		12	4
Samples received and processed by MSD		10	0
Sent to Australia	Client records	4,240	1,429
	Alias records	2,656	995
	Total records	6,898	2,424
Received from Australia	Client records	1,793	956
	Alias records	1,214	671
	Total records	3,007	1,627
Total number of s.103 type notices sent		140	0
Referred for testing for Australian Age Pension		9	0
Already in receipt of Australian Age Pension		7	0
Insufficient Australian residence to qualify		91	0
Granted Australian Age Pension		10	0

The incomplete information makes it difficult to comment on this match. However, as it exists primarily to ensure the quality of information on MSD files and to ensure that any New Zealanders entitled to Australian benefits receive them, it would seem to be providing some positive results. Small numbers of individuals are being identified as potentially eligible for Australian pensions and some are receiving pensions who might not otherwise have done so. The responses to s.103 notices issued for this match are included in the figures for the Change in Circumstances match (match 4).

## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

---

In response to the request received last year for approval to operate this match using an on-line transfer, approval was granted subject to the following conditions:

- a) The performance and use of the on-line information transfer systems is audited by or on behalf of the Ministry by 30 September 2004, to check compliance with this approval.
- b) A summary of the results of the audit or audits prepared under condition (a) will be reported to the Privacy Commissioner by 31 October 2004 together with an explanation by the Ministry of steps taken to remedy any problems that the audit may reveal.

When the results of the audit have been received and the programme is operating in accordance with the approval given, consideration may be given to extending it.

On the basis of the information supplied, we are satisfied that this programme has generally been conducted in accordance with the requirements of ss.99 to 102 of the Privacy Act, s.19D of the Social Welfare (Transitional Provisions) Act (which substitutes for s.103(1) and (2)) and the Social Welfare (Reciprocity with Australia) Order 2002 and the information matching rules.

### 6. CUSTOMS/MSD PERIODS OF RESIDENCE MATCH

---

Information matching provisions	Customs and Excise Act 1996, s.280B.
Year authorised	2002
Date commenced	July 2002
Match type	Confirmation of continuing eligibility
Unique identifiers	Australian and NZ Social Welfare numbers
On-line transfers	Yes

**Purpose:** This match is one of two that enable MSD to confirm periods of residence outside New Zealand for applicants for New Zealand benefits and pensions who live in New Zealand. The matches are of two types:

- (a) where a person is unable to be precise about their periods of residence at the time of application;
- (b) to test the accuracy of information provided by applicants by matching a sample 10% of applicants for specified benefits and pensions.<sup>1</sup>

This match is of the first type and enables MSD to determine departure and arrival dates and hence deduce periods of residence in New Zealand.

**System:** Specially trained staff at MSD International Services have access to the Customs database of passenger records. Those staff respond to requests from Centrelink and from within MSD International Services to confirm departure and arrival dates. Results of this match are processed through the Change in Circumstances match to generate s.103 notices and any other necessary follow-up. A full description can be found in last year's annual report.

---

<sup>1</sup> See: Centrelink (DIMIA)/MSD Periods of Residence Match.



RESULTS 2003/04

TABLE 10: CUSTOMS/MSD PERIODS OF RESIDENCE MATCH 2003/04 RESULTS	
	2003/04
Searches logged manually	683
Searches recorded automatically	779
Average compliance rate over year	87.7%
Highest compliance rate during year	92.1%
Lowest compliance rate during year	38.5%
Individuals with access privileges	6
Individuals actually accessing system	4

“Compliance rate” is a comparison between access activities as recorded by the operators and as recorded automatically by the CUSMOD system. The compliance is monitored and action taken when specific problems are identified - such as not logging searches that result in no matches. While the match has been in operation for more than a year, compliance figures were unreliable last year because of system faults and operator failure. Where compliance is below 100% we have been told it is largely the result of operator error rather than the systems problems that were a contributor last year. We are pleased to report that MSD have also informed us that they are less than satisfied with these results and are implementing more frequent audit reporting this year.

In response to the request received last year for approval to operate this match using an on-line transfer, approval was granted subject to the following conditions:

- a) The performance and use of the on-line information transfer systems is audited by or on behalf of the Ministry by 30 September 2004, to check compliance with this approval.
- b) A summary of the results of the audit or audits prepared under condition (a) will be reported to the Privacy Commissioner by 31 October 2004 together with an explanation by the Ministry of steps taken to remedy any problems that the audit may reveal.

When the results of the audit are received and the programme is operating in accordance with the approval given, consideration may be given to extending it.

On the basis of the information supplied, we are satisfied that this programme has generally been conducted in accordance with the requirements of ss.99 to 103 of the Privacy Act and the information matching rules.



## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

### 7. IRD/MSD DEBTORS TRACING MATCH

Information matching provision	Tax Administration Act 1994, s.85
Year authorised	1993
Commencement date	November 1994
Match type	Location of persons
Unique identifiers	Tax file number

**Purpose:** To provide contact details (address or employer's name and address) from tax records of otherwise untraceable debtors and thereby to enable MSD to recover benefit overpayments.

**System:** The programme traces debtors with whom MSD has lost contact. The programme is one part of MSD's process for collecting debts established by the other MSD information matching programmes, as well as from other MSD operations.

#### 2003/04 RESULTS

TABLE 11: IRD/MSD DEBTOR TRACING MATCH 2000-04 RESULTS				
	2000/01	2001/02	2002/03	2003/04
Number of runs	6	5	6	6
Debtors sent for matching (A)	348,448	318,804	363,233	263,908
Average number of debtors per run	58,075	63,671	60,538	43,985
Matched by IRD (B)	313,731	279,312	335,333	260,874
% of debtors sent (B/A)	90.0%	87.6%	92.3%	98.9%
Matches found useable (C)	70,045	60,434	62,809	58,237
% of debtors sent (C/A)	20.1%	19%	17.3%	22.1%
% of those matched by IRD (C/B)	22.3%	21.6%	18.7%	22.3%
Letters sent out (D)	3,132	2,855	2,438	2,460
% of those matched by IRD (D/B)	1.0%	1.0%	<1.0%	<1%
% of matches found useable (D/C)	4.5%	4.7%	3.7%	4.2%
Letters not returned (presumed delivered) (E)	2,932	2,702	2,306	2,320
% of matches found useable (E/C)	4.2%	4.5%	3.7%	4.0%
% of letters sent out (E/D)	93.6%	94.6%	94.6%	94.3%

While the total number of debtor records sent to IRD has dropped significantly, measures of effectiveness, such as the respective proportions of debtors matched or useable matches, have remained essentially stable or have improved. We have been told that in June 2002, MSD was given Ministerial approval to write off 35,000 older debts, (essentially where all available means of recovery had been exhausted). The majority of these debts were written-off in the first half of 2003. This resulted in a reduction in the number of debtors submitted to IRD in this past fiscal year. By removing these unproductive records from the matching process, the effectiveness of the match could be expected to improve, as it has done.

On the basis of the information reported we are of the opinion that the programme has been operated in accordance with ss.99 to 103 of the Act and the information matching rules.



## 8. EMPLOYERS/MSD SECTION 11A SOCIAL SECURITY ACT MATCH

Statutory authorisation	Social Security Act 1964, s.11A
Year authorised	1993
Match type	Detection of illegal behaviour
Unique identifiers	Tax file number

**Purpose:** To identify people who are receiving benefits from MSD while in paid employment. Information is obtained directly from employers. Section 11A of the Social Security Act 1964 authorises MSD to require employers to supply the names, addresses and tax file numbers of their employees.

**System:** The match is operated by the 10 Benefit Control Areas. Each request is initiated and approved by a Benefit Control Area Manager after checking for any earlier requests with the National Office register. While authorised outside of Part 10 of the Privacy Act, sections 11A(6) and (7) effectively bring most of the operation under the Privacy Act provisions. In particular, individuals receive the equivalent of a s.103 notice and opportunity to challenge the inferences from the match. A fuller description of the system can be found in last year's annual report.

### 2003/04 RESULTS

TABLE 12: EMPLOYERS/MSD SECTION 11A SOCIAL SECURITY ACT MATCH 2000-2004 RESULTS				
	2000/01	2001/02	2002/03 (as of 1 July 2004)	2003/04 (incomplete)
Matches approved	51	33	24	42
Matches completed	51	33	23	13
Matches not completed	0	0	1	29
Details of completed matches				
Total employees checked	12,724	9,751	19,677	1,540
Cases investigated	1,674	1,469	1,593	257
Benefits cancelled or adjusted	924	655	962	134
Total cost	\$64,067	\$42,554	\$104,192	\$7,132
Total savings*	\$1,798,858	\$1,467,117	\$1,882,893	\$158,100
Net savings*	\$1,734,791	\$1,424,563	\$1,778,701	\$150,968
* 'Savings' includes estimated prospective savings as well as overpayments actually established.				

As was the case last year, the results of one match from the preceding year are still not complete. This is the inevitable result of requests for information being sent to employers throughout the reporting period. As it may take weeks to receive the employer responses and months to process those reports, the "current" year figures are inevitably incomplete and even the previous year may not be completed. In contrast to more homogeneous programmes such as the IRD/MSD Commencement/Cessation match, each match processed in this programme is unique, making it less helpful to compare year-end figures.

## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

Accordingly, Table 13 sets out results for 2002/03 (almost complete) and the previous three completed years, enabling a clearer comparison.

<b>TABLE 13: EMPLOYERS/MSD SECTION 11A SOCIAL SECURITY ACT MATCH: 1999-2003 COMPARABLE RESULTS (AS AT 1 JULY 2004)</b>				
	<b>1999/00 (Finalised)</b>	<b>2000/01 (Finalised)</b>	<b>2001/02 (Finalised)</b>	<b>2002/03 (At 1 July 2004)</b>
Matches approved	86	51	33	24
Matches completed	86	51	33	23
Employees checked	24,070	12,724	9,751	19,677
Total cost	\$44,562	\$64,067	\$42,554	\$104,192
Total savings*	\$2,249,657	\$1,798,858	\$1,467,117	\$1,882,893
Net savings*	\$2,205,094	\$1,734,791	\$1,424,563	\$1,778,701
Net savings per completed match*	\$25,640	\$34,015	\$43,168	\$77,334

\* 'Savings' includes estimated prospective savings as well as overpayments actually established.

We are told that the average cost per completed match is significantly higher for 2002/03 (by a factor of at least two) because one of the employers matched was MSD itself, as a result of some high profile internal benefit fraud cases. That match involved a high number of employees and had to be done manually. The total number of employees matched was double the previous year even though the number of matches dropped. Reassuringly, while the total cost of matches in 2002/03 was higher, so were the savings.

The rate of challenges declined (actions confirmed) and successful challenges (actions overturned) are shown in Table 14. It is pleasing to see that while the number of adverse action notices sent in 2002/03 was similar to 2000/01, the number of challenges, successful and unsuccessful, dropped significantly. Challenges reported for 2003/04 are very preliminary as there are only 13 of 42 matches completed. However, it is possible that challenges for 2003/04 may be lower than in previous years for two reasons. Firstly, some programmes did not result in any contact with employees as the employer-provided list produced no matches. Secondly, some other matches were operated in close contact with the employers, including site visits by MSD staff to assist employers and inform employees about the process.

<b>TABLE 14: EMPLOYERS/MSD SECTION 11A SOCIAL SECURITY ACT MATCH: ANALYSIS OF CHALLENGES BY COMPLETED PROGRAMMES 2000-2004 (AS AT 1 JULY 2004)</b>				
	<b>2000/01</b>	<b>2001/02</b>	<b>2002/03</b>	<b>2003/04</b>
Notices of adverse action sent	1,448	1,264	1,492	243
Challenges declined	185	181	58	0
Challenges upheld	30	57	14	0

On the basis of the information supplied, we are satisfied that the programme has generally been operated in accordance with the requirements of ss.99 to 103 of the Privacy Act and the information matching rules.



**9. IRD/MSD COMMUNITY SERVICES CARD MATCH**

Information matching provision	Tax Administration Act 1994, s.83
Year authorised	1991
Commencement date	1992
Match type	<ul style="list-style-type: none"> <li>Identifying persons eligible for an entitlement they have not claimed</li> <li>Confirmation of continuing eligibility</li> </ul>
Unique identifiers	Tax file number

**Purposes:**

- To identify people who, by virtue of their level of income and number of children, qualify for a Community Services Card (CSC) entitling them to subsidised health care
- To confirm continuing eligibility of card holders so that automatic renewals can be arranged
- To identify holders of the CSC who now exceed the income limits for the CSC so that they may be flagged as ineligible for a renewal.

**System:** Tax credit information provided by IRD to MSD is matched against the income limits for the CSC. The income limits vary depending upon the number of dependent children. Each exchange generates:

- a letter advising the person that he or she is over the income threshold for a card and that their current card will not be renewed automatically; or
- a letter advising that the person is within the threshold for the card and enclosing an application form for a card; or, if a current CSC is already held
- a renewal flag upon MSD’s computer system, SWIFTT, so that a new card is automatically generated when the existing card expires.

**2003/04 RESULTS**

TABLE 15: IRD/MSD COMMUNITY SERVICES CARD MATCH 2002-04 RESULTS (AS AT 30 JUNE 2004)		
	2002/03	2003/04
Runs	52	52
Records received from IRD	927,713	893,097
Family Support type cards automatically renewed	184,046	165,640
‘Invitation to Apply’ forms sent out	52,501	46,681
s.103 notices sent	10,516	9,208
Challenges received	57	37
Successful challenges	31	0
Unsuccessful challenges	21	36
Unresolved at end of reporting year	5	1

Of the five unresolved cases at 30 June 2003, all were entitled to use the cards until 30 September 2003 and all requested re-assessment of their income from IRD. Those re-assessments resulted in three cards being renewed. The other two were not renewed as IRD confirmed the information previously provided to MSD.

## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

This year, MSD undertook a national review of letters and the s.103 notice for this match was reviewed and rewritten as part of that process. We have been told that the reduction in challenges, and particularly in resolved challenges, is a result of a new ability to store a digital image of the notice. This image can be retrieved by client service representatives when a client calls to query the letter, and has improved their ability to respond to questions and explain the process for updating client income information with IRD or providing evidence to MSD that their income is less than indicated.

MSD have advised that they now automatically issue Community Services Cards to most students receiving the Student Allowance as that benefit is already income tested. Students who are receiving only a Student Loan or who have a working spouse are not issued the cards automatically but do receive an invitation to apply through the regular process. The number of cards issued automatically this year was 41,551. As this is the first year of the automatic process, MSD expect the number of students benefiting from this will increase next year as students who currently hold cards issued under non-student categories have those cards replaced.

On the basis of the information which has been supplied, we are satisfied that this information matching programme has been conducted in accordance with ss.99 to 103 of the Privacy Act and the information matching rules.

### 10. EDUCATIONAL INSTITUTIONS/MSD LOANS & ALLOWANCES MATCH

Information matching provisions	Education Act 1989 <ul style="list-style-type: none"> <li>• s.226A - Institutions</li> <li>• s.238B - Private training establishments</li> </ul>
Year authorised	1998
Commencement date	<ul style="list-style-type: none"> <li>• 1998 - Allowances</li> <li>• 1999 - Loans</li> </ul>
Match type	<ul style="list-style-type: none"> <li>• Confirmation of eligibility and continuing eligibility</li> <li>• Updating of data</li> </ul>
Unique identifiers	<ul style="list-style-type: none"> <li>• MSD customer number</li> <li>• Student identification numbers</li> </ul>
On-line transfers	Yes

**Purpose:** To provide MSD with the enrolment information required to assess a student's entitlement to receive a student allowance, student loan, or both. In particular, the information derived from this programme enables MSD to:

- verify that a student is undertaking a programme of study which has been approved by the Tertiary Education Commission
- determine whether the student is full time or part time
- confirm start and end dates of the student's study programme
- confirm any vacation periods exceeding three weeks during the student's period of study
- identify the amount of the compulsory tuition fees payable from a loan account to an institution.



**System:** The programme begins by a request for information from MSD to educational institutions. After receiving the requested data, MSD matches the data with its student database. This provides the information to enable decisions to be made about whether to grant an allowance or loan, or decline an allowance or loan on the grounds that the student concerned:

- is not enrolled in an approved programme of study, or
- is not studying full-time (for loans and allowances) or part-time full year (for loans) or part-time part year with 0.3 or more EFTS<sup>1</sup> (for loans).

The participants know this as Verification of Study (VoS). The programme, which uses both manual systems and a sophisticated on-line system, was fully described in last year's annual report.

## 2003/04 RESULTS

There are three operational items of note this year.

First, StudyLink reached an agreement with the tertiary education institutions<sup>2</sup> that they would advise StudyLink when a student withdraws from a course for which a student loan or allowance has been paid. (Private training establishments have always been required to provide this information.) These notifications are initiated by the institution using the existing VoS form (rather than in response to a request from MSD) and have been received since January 2004.

Second, the on-line application option has grown in proportion to the paper-based options. Electronic applications appear to bring some benefits to this programme. Since the student inputs the information directly, the potential for inaccurate transcription of handwritten forms is reduced. It also appears that students have confidence that electronic applications can be processed more promptly than the paper forms, and therefore they apply later when their plans are more settled. This has resulted in fewer repeat requests needing to be sent to the institutions.

Third, as required under the terms of an approval to use an on-line connection, StudyLink commissioned an audit by KPMG of the operation of the secure website used by education institutions to receive and submit their verification of study forms. Having received a satisfactory audit report, a further approval for the continued use of the secure website for another three years was given. Studylink report that 247 institutions are now using this facility, an increase of 79 over last year.

---

1. Access to the fees component of the Student Loan scheme was extended to part time part year students from 01 January 2004

2. These are institutions established under section 162 of the Education Act 1989 (universities, polytechnics, colleges of education, specialist colleges, and formally established wananga).

REPORT OF THE PRIVACY COMMISSIONER 2003-2004

<b>TABLE 16: EDUCATIONAL INSTITUTIONS/MSD LOANS AND ALLOWANCES MATCH RESULTS 2000 - 2004</b>				
	<b>2000/01</b>	<b>2001/02</b>	<b>2002/03</b>	<b>2003/04</b>
Total VoS requests made	732,508	848,838	842,767	769,962
Individual applications involved	239,950	254,467	176,304	178,688
Positive matches achieved	664,596	668,118	764,087	1,051,612
Confirmed eligibility	396,603	520,176	469,369	701,671
Number of institutions involved	556	519	611	604
s.103 letters sent out (loans & allowances)	Not reported	Not reported	31,936	31,318
Still in process	Not reported	Not reported	538	726
Loan/allowance approved after s.103 sent	Not reported	Not reported	16,498	13,027
Declined	Not reported	Not reported	14,900	17,520

At first glance, the number of positive matches this year is unexpected, as it is larger than the number of VoS requests made to institutions. However, the change is, in large part, the result of the institution-initiated reporting on withdrawals from courses mentioned above. As these notifications are unrelated to any VoS request, positive matches now outnumber requests by about 50%. StudyLink also attribute some of this growth to a trend of improved efficiency and effectiveness on the part of all participants in the system as they have become more familiar with its requirement and more students use the electronic application process. Earlier indications of that trend can be seen in the data from 2001/02 and 2002/03 as a growth in positive matches achieved while the number of VoS requests stayed stable.

As a student may study at more than one institution or make changes to their study programme during the year (for example, dropping a course), there may be several VoS requests issued for any one application during the course of the year. MSD records the total number of VoS requests for each application. This allows them to calculate the percentage of applications that can be decided through a single VoS request or through several requests.

The table below compares VoS applications that can be completed in one request with those that require more than five requests. Previously, this was reported as a cumulative total of quarterly results. This year StudyLink recommended that these results should be reported as an end-of-year final figure. They explained that the quarterly cumulation figures tended to overstate the number of cases that were resolved with one VoS request and understate the number that required more than five requests. This year's table provides last year's data revised to an end-of-year figure as well as the corresponding current year figure.

<b>TABLE 17: EDUCATIONAL INSTITUTIONS/MSD LOANS AND ALLOWANCES MATCH VOS REQUEST ANALYSIS 2002 - 2004</b>		
	<b>2002/03 Average</b>	<b>2003/04 Average</b>
Single VoS issued	34%	38%
More than 5 VoS requests	26%	22%

It is too early to draw firm conclusions. However, the numbers perhaps suggest that StudyLink, institutions, and students are becoming more comfortable with the operation of



## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

the programme and more efficient in their participation. Information about this programme is given to students when they apply for loans or allowances. It is included on all application forms both paper and electronic used by StudyLink.

There is a separate review and appeal process enabling students who believe that a decision in relation to their application for a student allowance to be incorrect, to request a “review of decision”. If they disagree with the review they may appeal to the Student Allowance Appeal Authority.

**TABLE 18: EDUCATIONAL INSTITUTIONS/MSD LOANS AND ALLOWANCES MATCH  
REVIEWS OF DECISIONS 2001 - 2004**

	2001/02	2002/03	2003/04
Number of reviews lodged	159	165	60
Reviews allowed	73	89	29
Reviews partially allowed	8	4	0
Reviews withdrawn	11	5	9
Reviews in process	3	0	0
Review lapsed	0	5	0
Reviews declined	64	62	22
Appeals lodged	7	2	1
Appeals allowed	1	1	1
Appeals in process	1	0	0
Appeals declined	5	1	0

The significant figures here (total number received, upheld, and declined) have all dropped by more than 60% each. This might indicate a significant improvement in student satisfaction with the process given that the number of declined challenges to notices of adverse action actually increased by 18%. StudyLink report that call centre staff now attempt to resolve questions about a student’s programme of study as early as possible with the goal of reducing the number of reviews and appeals initiated.

On the basis of the information supplied, we are satisfied that this programme has been conducted in accordance with the requirements of ss.99 to 103 of the Privacy Act and the information matching rules.



REPORT OF THE PRIVACY COMMISSIONER 2003-2004

**11. NETHERLANDS/MSD CHANGE IN CIRCUMSTANCES MATCH**

Authorising provisions	Social Welfare (Transitional Provisions) Act 1990, ss.19C and 19D and Social Welfare (Reciprocity with the Netherlands) Order 2003, Article 216 <sup>1</sup>
Year authorised	2003
Commencement date	2003
Match type	<ul style="list-style-type: none"> <li>• Confirmation of continuing eligibility</li> <li>• Updating of data</li> </ul>
Unique identifiers	Netherlands and NZ social welfare numbers

**Purpose:** This is one of a suite of four matches (matches 11, 12, 13, and 14) designed to facilitate the administration of arrangements between the Netherlands and New Zealand under which superannuitants living in either country may have their periods of residence in both countries totalled for the purposes of eligibility for benefits. This particular match enables the transfer of applications for benefits and pensions and advice of changes in circumstances between New Zealand and the Netherlands.

**System:** As with the suite of matches with Australia (matches 4, 5, and 6), this Change in Circumstances match can be considered the basic match. When applying for New Zealand Superannuation, Veterans Pension, or Invalids Benefit, an individual may also apply for corresponding benefits from the Netherlands to which they believe they may be entitled. The New Zealand application form advises applicants that testing for entitlement to any overseas pension will be required and that information supplied may be exchanged with another government under a data matching programme to verify entitlement. Similarly, an individual applying for the equivalents with the Netherlands Sociale Verzekeringsbank (SVB) may apply at the same time for New Zealand entitlements. In essence, an applicant submits two applications and the receiving agency forwards the second application to its partner agency in the other country.

When a person first applies for a pension and indicates that they may be entitled to a pension in the other country, information is exchanged so that both agencies are aware of the fact and so that the relevant unique identifier used by those agencies (SWN for MSD, AOW for SVB) can be stored in each other's records to facilitate later updates of information about specific individuals and about global changes to such things as pension rates. As the results of these routine exchanges may sometimes be considered to be adverse action, a s.103 type notice is sent to the individual to ensure that both agencies have the correct information. After that initial verification, the individual will receive notices of global changes to the pensions (inflation adjustments to rates for example) but no further s.103 type notices.

<sup>1</sup> Although not information matching provisions listed in the Privacy Act's Schedule 3, the matches operated under these provisions are required to be treated as if they were authorised information matching programmes for most purposes. For example, we are required to report on the programme in the annual report as Privacy Act, s.105 applies to the programmes – see Social Welfare (Transitional Provisions) Act 1990, s.19D(3)(b).



The information about clients and changes in client circumstances that is included in this transfer consists of any change in:

- name
- address
- marital status, spouse or partner
- bank account details
- death of spouse or partner
- residential status
- suspensions and reason for suspension
- cancellation and reason for cancellation
- grant or changes of rate of any third country pension
- rate of benefit or pension payable (notional Netherlands benefit rate, actual rate and rate excluding third country pension, as required).

MSD notifies each New Zealand applicant of the link that has been created, enabling them to correct any mismatch and confirm their entitlements. This notice under s.19D of the Social Welfare (Transitional Provisions) Act serves most of the same functions as a s.103 notice of adverse action under the Privacy Act for the purposes of these three matches<sup>2</sup>. Once that link has been established as valid, MSD and SVB are able to notify each other of both global changes to their systems (for instance pension rates: see match #13 Netherlands/MSD General Adjustment Match) and specific changes related to individuals (such as a change of marital status). Those changes may cause action to be taken that might be regarded as adverse action, and so an initial warning notice is sent to all beneficiaries with claims to both a New Zealand and a Netherlands pension or benefit. Beneficiaries are not sent any further s.103 type notices<sup>3</sup> about global changes, but do receive standard letters advising them of global changes that may affect them.<sup>4</sup> If an individual's specific circumstances change, and that results in the possibility of adverse action being taken by MSD, another s.103 type notice will be generated to cover that situation.

MSD annotates the client file with a record of the notice and any response. If they receive acknowledgement from the client that the link is valid or 14 days pass with no response from the client, the record is flagged as "valid s.103" meaning that transactions from the Netherlands can be processed for that client. Until the notice period has elapsed, or if the recipient of the notice disputes the link, the record is flagged "invalid s.103" and no transactions from the Netherlands will be processed for that account.

---

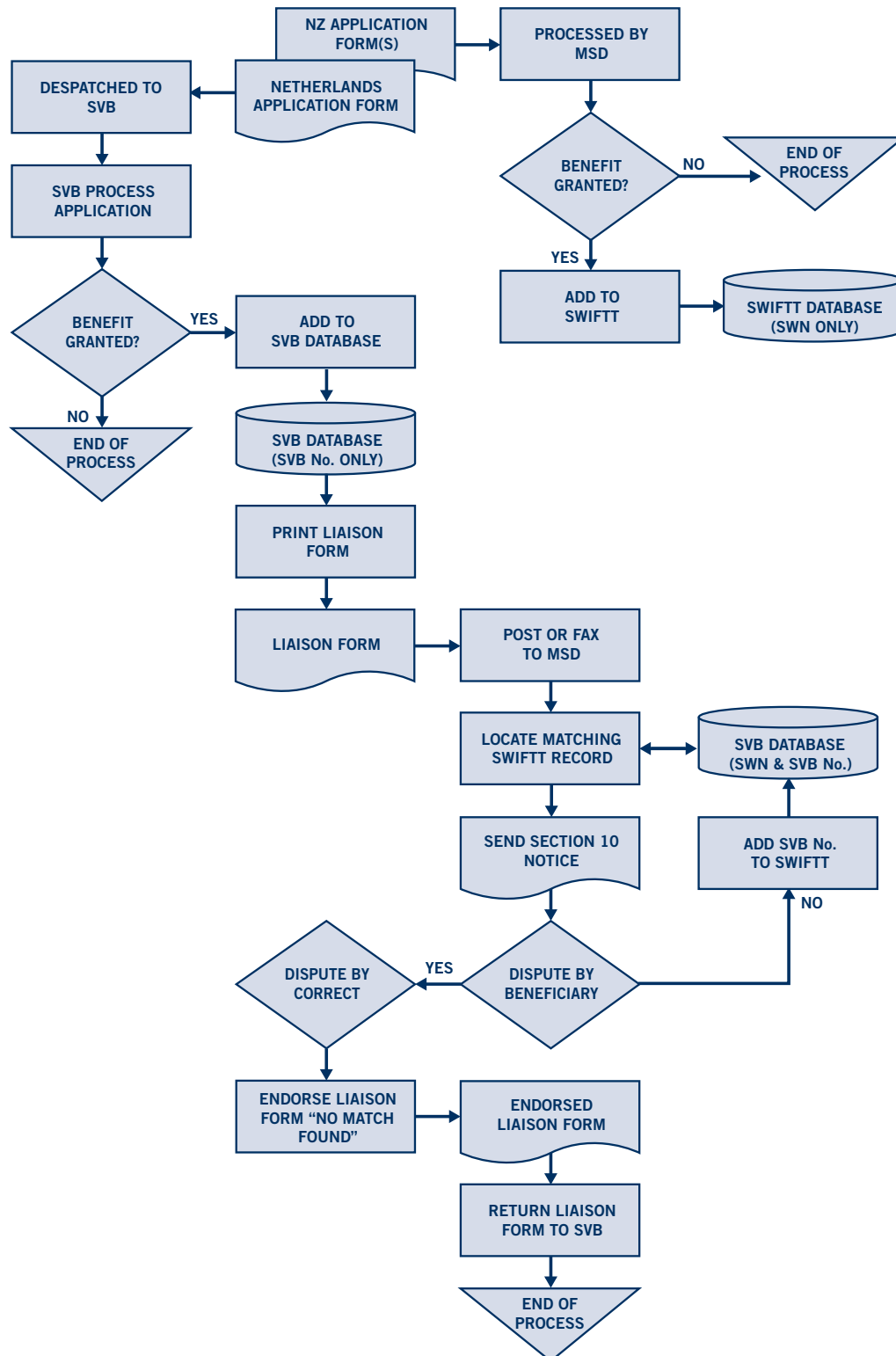
<sup>2</sup> Privacy Act, s.103(1) and (2), do not apply directly to this programme. The operative provisions are Social Welfare (Transitional Provisions) Act 1990, s.19D(3)(c) and (d) (see also s.19D(4) to (4C)). These are similar to s.103(1) and (2). Section 103(3) and (4) are applied directly.

<sup>3</sup> For simplicity these notices will be referred to in this report as s.103 type notices rather than s.19D notices. Indeed, MSD flag client records and report on transactions as being "s.103 valid" or "s.103 invalid".

<sup>4</sup> This approach is expressly anticipated by subsections (4A) to (4C) of s.19D of the Social Welfare (Transitional Provisions) Act which was inserted into s.19D in April 2002 by the Social Welfare (Transitional Provisions - Overseas Pensions) Amendment Act 2002. That amendment was the subject of consultation with the Privacy Commissioner prior to introduction and appeared to offer a suitable means to remain within the spirit of the usual information matching controls while coping with the frequent exchange of information for updating benefit rates using a verified common unique identifier.

REPORT OF THE PRIVACY COMMISSIONER 2003-2004

FIGURE 3: NETHERLANDS/MSD CHANGE IN CIRCUMSTANCES MATCH





When transactions are received from the Netherlands, those records for which there is a match but that have an “invalid s.103” status are held for up to 28 days to allow for a change of status to “valid s.103” before they are purged without action.

#### 2003/04 RESULTS

MSD reports that all requests received were processed manually and no statistics were captured by their system (not even the total number of requests received). However, while no s.103 statistics can be identified with this particular match, we are assured that, as with the Centrelink matches, s.103 notices are issued by SWIFTT as they should be and that the statistics for these are included in the numbers reported in the General Adjustment match (match 13). That report shows no challenges to either of these matches. Anecdotal reports are that the only complaints received are about the use of the term “benefits” in the s.103 notices as the recipients consider that they are receiving “pensions” not benefits. One significant difference between this match and its Australian counterpart is that, regardless of the number of changes in circumstances processed, each individual will receive only one s.103 type notice per match run.

As is often the case with new matches, this one has experienced teething problems particularly in the compilation of reports. On the basis of the limited information supplied, we are unable to say whether this programme has generally been conducted in accordance with the requirements of ss.99 to 102 of the Privacy Act, s.19D of the Social Welfare (Transitional Provisions) Act (which substitutes for s.103(1) and (2)) and Social Welfare (Reciprocity with the Netherlands) Order 2003, and the information matching rules.

REPORT OF THE PRIVACY COMMISSIONER 2003-2004

**12. IRD/MSD(NETHERLANDS) TAX INFORMATION MATCH**

Authorising provisions	Social Welfare (Transitional Provisions) Act 1990, ss.19C and 19D and Social Welfare (Reciprocity with the Netherlands) Order 2003, Article 216 <sup>1</sup>
Year authorised	2003
Commencement date	2004
Match type	Updating of data
Unique identifiers	Netherlands and NZ social welfare numbers & IRD number

**Purpose:** To enable information about New Zealand superannuitants' income to be passed to the Netherlands tax authority as Netherlands pensions are income tested. However, as New Zealand superannuation is not income-tested, there is no requirement for Netherlands tax information to be sent to New Zealand.

**System:** This is one of a suite of four matches designed to facilitate the administration of arrangements between the Netherlands and New Zealand under which superannuitants living in either country may have their periods of residence in both countries totalled for the purposes of eligibility for benefits.

This match operates manually as volumes of requests are low. The Netherlands Sociale Verzekeringsbank (SVB) sends a written request for an individual's income information on a form approved by both MSD and SVB to MSD International Services. That form includes the client's name(s), address, date of birth, and both Netherlands and New Zealand social welfare numbers. MSD pass the form on to IRD after adding the person's IRD number if they have it on file. Where a match can be determined, IRD complete the sections of the form for New Zealand income information.

The form is returned to MSD which then forwards it to the Netherlands. MSD keep no record of the information contained on the form. IRD does not keep a copy of the form, nor does it transfer information from the form to its own systems. IRD are responsible for sending adverse action (s.103 type) notices to individuals affected by this match. The Information Exchange Officer at IRD manually records the statistics for this match.

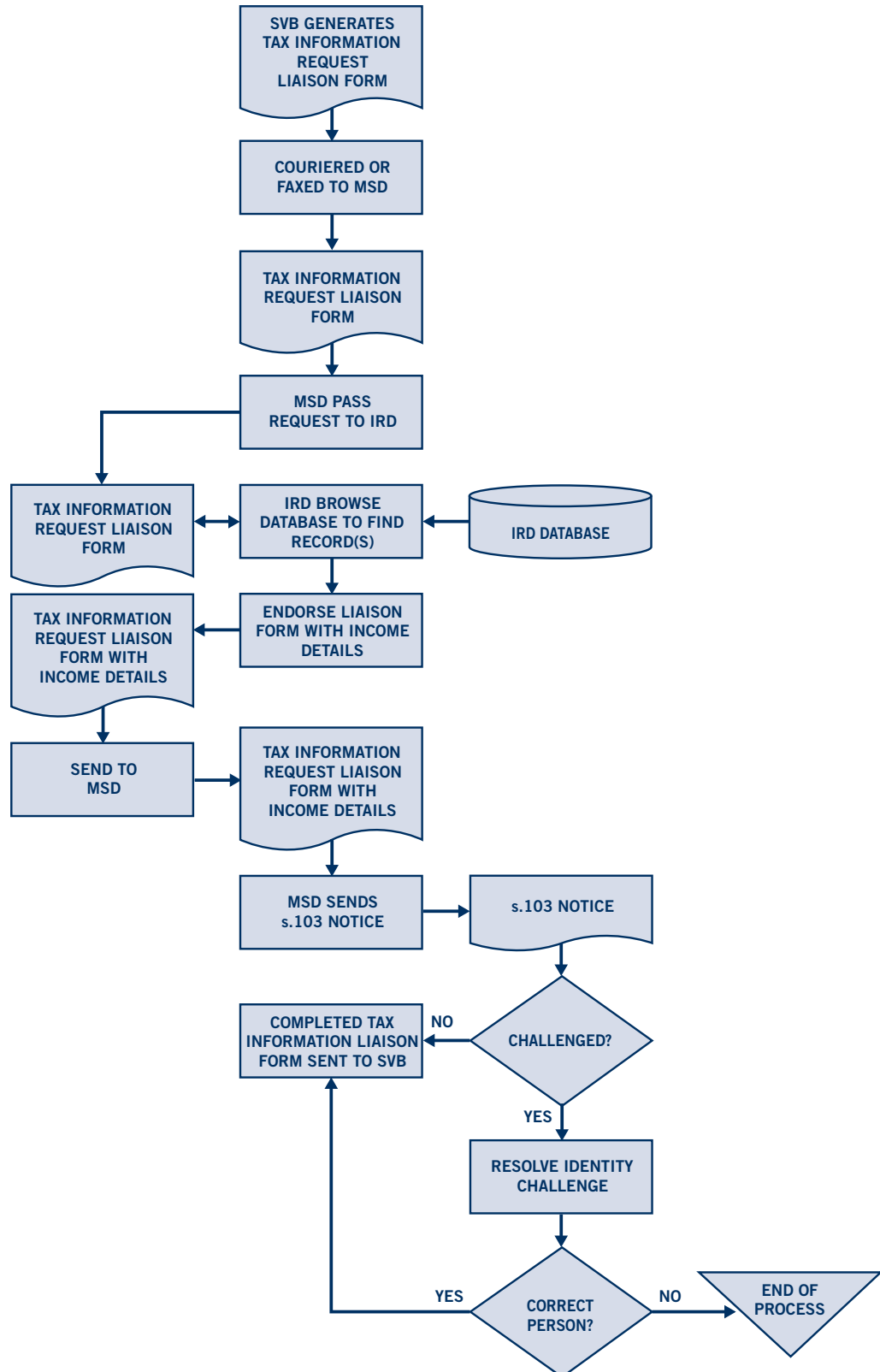
**2003/04 RESULTS:**

MSD did not receive any formal requests during the reporting period for this programme.

<sup>1</sup> Although not information matching provisions listed in the Privacy Act's Schedule 3, the matches operated under these provisions are required to be treated as if they were authorised information matching programmes for most purposes. For example, we are required to report on the programme in my annual report as Privacy Act, s.105 applies to the programmes – see Social Welfare (Transitional Provisions) Act 1990, s.19D(3)(b).



FIGURE 4: IRD/MSD(NETHERLANDS) TAX INFORMATION MATCH



REPORT OF THE PRIVACY COMMISSIONER 2003-2004

**13. NETHERLANDS/MSD GENERAL ADJUSTMENT MATCH**

Authorising provisions	Social Welfare (Transitional Provisions) Act 1990, ss.19C and 19D and Social Welfare (Reciprocity with the Netherlands) Order 2003, Article 216 <sup>1</sup>
Year authorised	2003
Commencement date	2003
Match type	Updating of data
Unique identifiers	Netherlands and NZ social welfare numbers

**Purpose:** To enable the processing of across-the-board changes to benefit rates for individuals receiving pensions from both New Zealand and the Netherlands.

**System:** The General Adjustment match permits information to be disclosed from New Zealand to the Netherlands to coincide with annual across-the-board changes in pension rates in April of each year. Similarly, when the Netherlands adjusts its across-the-board rates in January and July of each year, they will send that information to New Zealand.

Each year in April, New Zealand sends the following information to the Netherlands Sociale Verzekeringsbank (SVB) on a CD:

- Social welfare number (SWN)
- Benefit/pension type
- Client name
- Client address
- New Zealand payment rate.

This information is used by SVB to update their records on pensioners receiving benefits from both countries. As SVB is the party responsible for this match, it is not required to report to the Privacy Commissioner.

Twice each year (January & July), MSD creates a file on CD, containing only the New Zealand and Netherlands unique identifiers for all persons known to be receiving pensions from the Netherlands while residing in New Zealand. The Netherlands then creates a new file on tape, updating the information sent to them with information about Netherlands' rate adjustments for those individuals and sends it back to New Zealand. The information on the "completed" file is:

- Netherlands pension number (AOW)
- Benefit status indicator
- Start date of benefit
- Tax and contribution amounts
- Pension composition (state/employer)
- Total net rate of all pensions
- Holiday pay

<sup>1</sup> Although not information matching provisions listed in the Privacy Act's Schedule 3, the matches operated under these provisions are required to be treated as if they were authorised information matching programmes for most purposes. For example, we are required to report on the programme in the annual report as Privacy Act, s.105 applies to the programmes – see Social Welfare (Transitional Provisions) Act 1990, s.19D(3)(b).



- Exchange
- New Zealand SWN number

SVB then sends the tape by courier to New Zealand, where MSD update their records about those individuals' Dutch pension rates. An exact match will be updated automatically. A less-than-exact match will be processed manually, which will normally involve a search of SWIFTT by an MSD staff member with experience in dealing with variant spellings and other complications. The records will be updated if there is a successful manual match. All individuals whose records are updated through this process receive a notice informing them of the change.

Some records may have an "invalid s.103" status meaning that the client was sent a s.103-type notice but the response period has not expired nor has the client responded to that notice to confirm the match is correct. In these cases, the information is held for 28 days to allow the client to respond or for the response period to expire. If after 28 days the record is still showing an "invalid s.103" status, the information is purged without action.

Originally, information was transferred by tape. SVB have requested that the parties change to CD as system upgrades at their end will make tape unworkable in the future. At the moment, MSD are sending information on CD and receiving information on tape. It is expected that SVB will start using CD as their transmission medium in 2005.

### 2003/04 RESULTS

This match was used only for a holiday pay adjustment this year. Figures have not been provided on the total number of records included in the matching process nor the numbers of records not matched. When the matches were proposed, MSD estimated that some 1,900 individuals living in New Zealand and receiving Netherlands benefits would be subject to this match and that some 2,000 change in circumstances notifications would be processed each year.

TABLE 19: NETHERLANDS/MSD GENERAL ADJUSTMENT MATCH <sup>2</sup> 2003/04 RESULTS	
s.103 notice sent	450
Permission assumed	429
Permission confirmed by client	4
Challenged	0
Challenge rejected	0
Challenge accepted	0

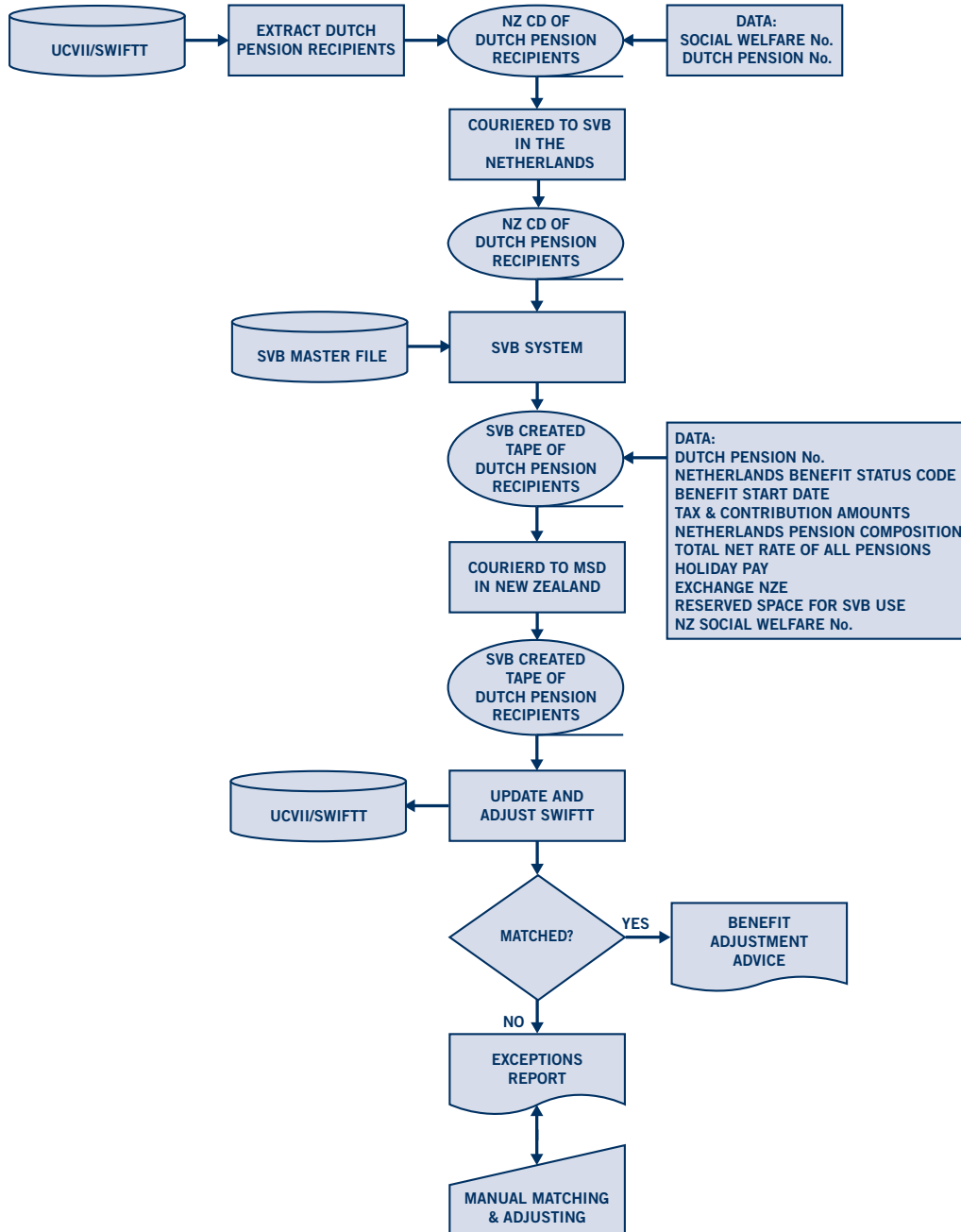
The total of s.103 notices sent covers both the Change in Circumstances (CIC) match (match 11) and this General Adjustment (GA) match. It will include some notices that still have a "s.103 invalid" status at the end of the reporting period. It is, however, reassuring that no challenges have been recorded as being received. We are assured that the SWIFTT

<sup>2</sup> This report on s.103-type notices includes those sent for the Netherlands/MSD Change in Circumstances match (match 11)



REPORT OF THE PRIVACY COMMISSIONER 2003-2004

FIGURE 5: NETHERLANDS/MSD GENERAL ADJUSTMENT MATCH





system sends these notices each time a record is changed in this manner. As the matches (CIC and GA) ran for less than six months and only the holiday pay adjustment (and neither of the two major adjustments expected each year) was run during the reporting period, it would seem that 450 notices sent out is probably a reasonable indicator of activity in these two matches.

As is often the case with new matches, this one has experienced teething problems particularly in the compilation of reports. On the basis of the limited information supplied, we are unable to say whether this programme has generally been conducted in accordance with the requirements of ss.99 to 102 of the Privacy Act, s.19D of the Social Welfare (Transitional Provisions) Act (which substitutes for s.103(1) and (2)) and Social Welfare (Reciprocity with the Netherlands) Order 2003, and the information matching rules.

#### 14. NETHERLANDS/MSD DEBT RECOVERY MATCH

Authorising provisions	Social Welfare (Transitional Provisions) Act 1990, ss.19C and 19D and Social Welfare (Reciprocity with the Netherlands) Order 2003, Article 216 <sup>1</sup>
Year authorised	2003
Commencement date	2003
Match type	Location of persons
Unique identifiers	Netherlands and NZ social welfare numbers

**Purpose:** To enable New Zealand and the Netherlands to recover benefit overpayment debts due to them by individuals living in the other country.

**System:** This is one of a suite of four matches designed to facilitate the administration of arrangements between the Netherlands and New Zealand under which superannuitants living in either country may have their periods of residence in both countries totalled for the purposes of eligibility for benefits. The operating agencies are the Netherlands Sociale Verzekeringsbank (SVB) and Ministry of Social Development.

SVB has indicated that they expect to send no more than 25 requests to MSD in any one year. MSD do not expect to make any requests of SVB under this match. SVB sends MSD an approved form (debt certificate) with details of the debt and debtor, certifying that the debt is a social security debt, its recovery is enforceable under Netherlands law and does not contravene a five-year limitation rule, local remedies have been exhausted, and any review or appeal rights have been exhausted or expired. They also supply any documents required to enforce the debt, such as certified copies of applicable judicial or administrative instruments.

<sup>1</sup> Although not information matching provisions listed in the Privacy Act's Schedule 3, the matches operated under these provisions are required to be treated as if they were authorised information matching programmes for most purposes. For example, we are required to report on the programme in the annual report as Privacy Act, s.105, is stated to apply to the programmes – see Social Welfare (Transitional Provisions) Act 1990, s.19D(3)(b).

**REPORT OF THE PRIVACY COMMISSIONER 2003-2004**

MSD first establishes whether the debtor is a current recipient of New Zealand benefits by manually matching the incoming debtor details against its database. If a match is found, MSD writes to the debtor, advising of the information received from SVB and giving them an opportunity to dispute that the debt relates to them. That letter serves a similar purpose to the requirements of s.103 of the Privacy Act. If the individual currently receives a New Zealand benefit, the debt recovery proceeds by deducting the repayments from regular benefit payments. If the debtor is not a current beneficiary, MSD pursues the debt recovery through their usual processes.

**2003/04 RESULTS:**

No requests were received from SVB during the reporting period.

*Matches with the Electoral Enrolment Centre as user agency*

The Electoral Enrolment Centre (EEC) operates five matches. Four are designed to identify people who may be eligible to vote but are not on the electoral roll (or whose enrolment details may need updating). The fifth is designed to identify people who are on the roll but who may not be eligible to vote (NZIS/EEC Unqualified Voters Match).

The four programmes that ran in 2003/04 are:

- Citizenship/EEC Unenrolled Voters Match
- LTSA/EEC Unenrolled Voters Match
- MoT/EEC Unenrolled Voters Match
- MSD/EEC Unenrolled Voters Match.

**EEC MATCH PROCESS FOR UNENROLLED VOTERS MATCHES**

The four matches are processed together in a sequence intended to maximize the benefits from each run. This year the programmes were run twice, in July 2003 and March 2004. Processing the results of the matches took 6-8 weeks each.

The matches are run in the following sequence:

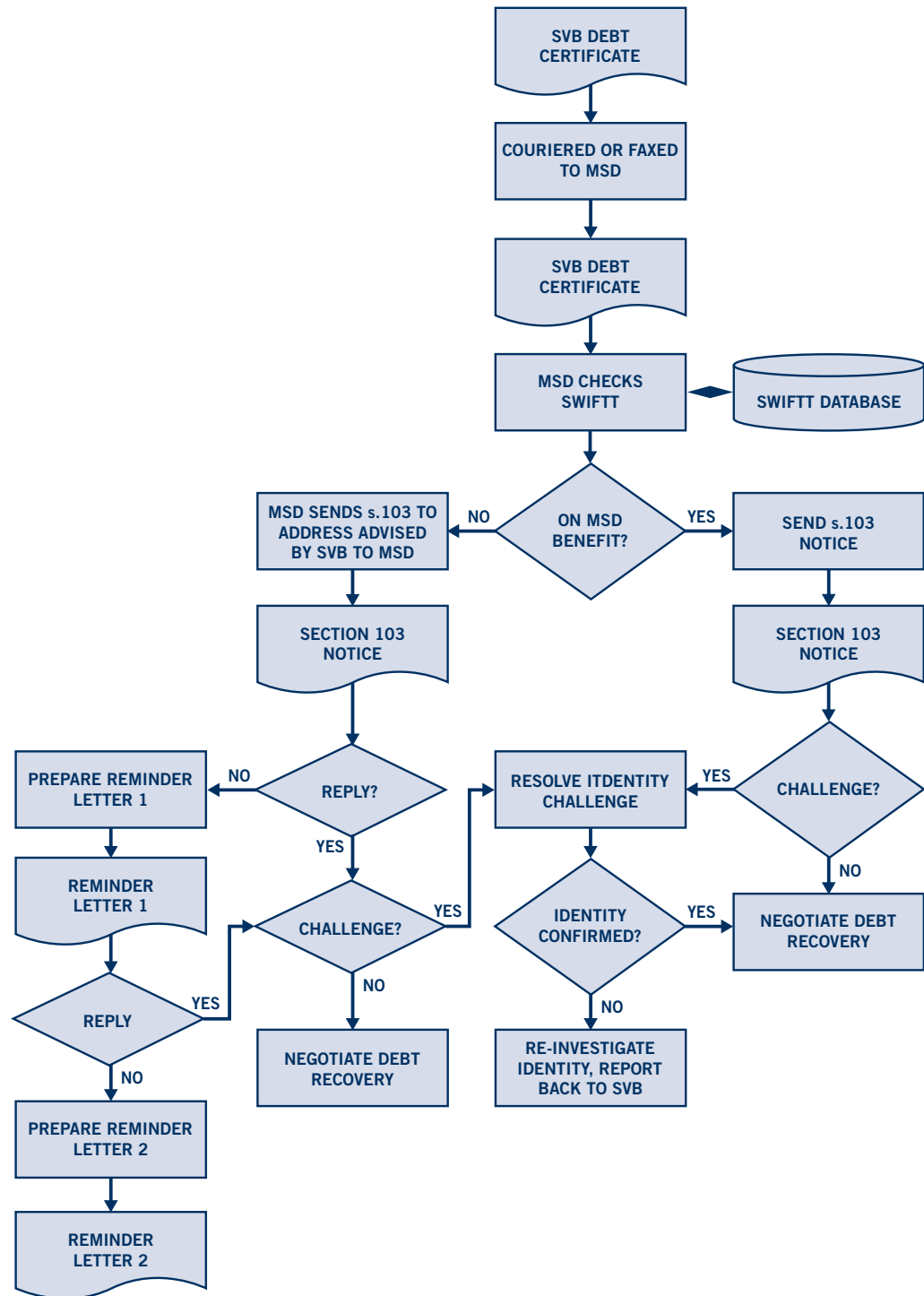


The process for each of the four matches is essentially the same and shown in detail in Figure 6 on page 68. This figure uses terminology from the MSD match.

The source agency (LTSA, MoT, MSD, and Citizenship) creates a file extract from their records (as described under the individual matches). The resulting files are then passed to EEC and are matched with the electoral database on the basis of surname, given name(s) and date of birth. This will result in one of three possible outcomes:



FIGURE 6: NETHERLANDS/MSD DEBT RECOVERY MATCH



## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

---

- matched
- possibly matched
- not matched.

The addresses for “matched” records are compared, and if the addresses are the same the records are destroyed. Should the addresses differ, the dates of the “update dates” are compared. If the update date from the source agency is later than the update date from the electoral roll record, and the elector’s history does not show that the elector has ever resided at this address, the individual is sent an invitation to update their details on the electoral roll. It should be noted that the “update date” supplied by the agency may be the last date the record was updated in any form, not just the address.

Random samples of “possibly matched” records are examined manually to establish whether or not they should be regarded as matched. Where records appear to match, the process detailed in the previous paragraph is followed.

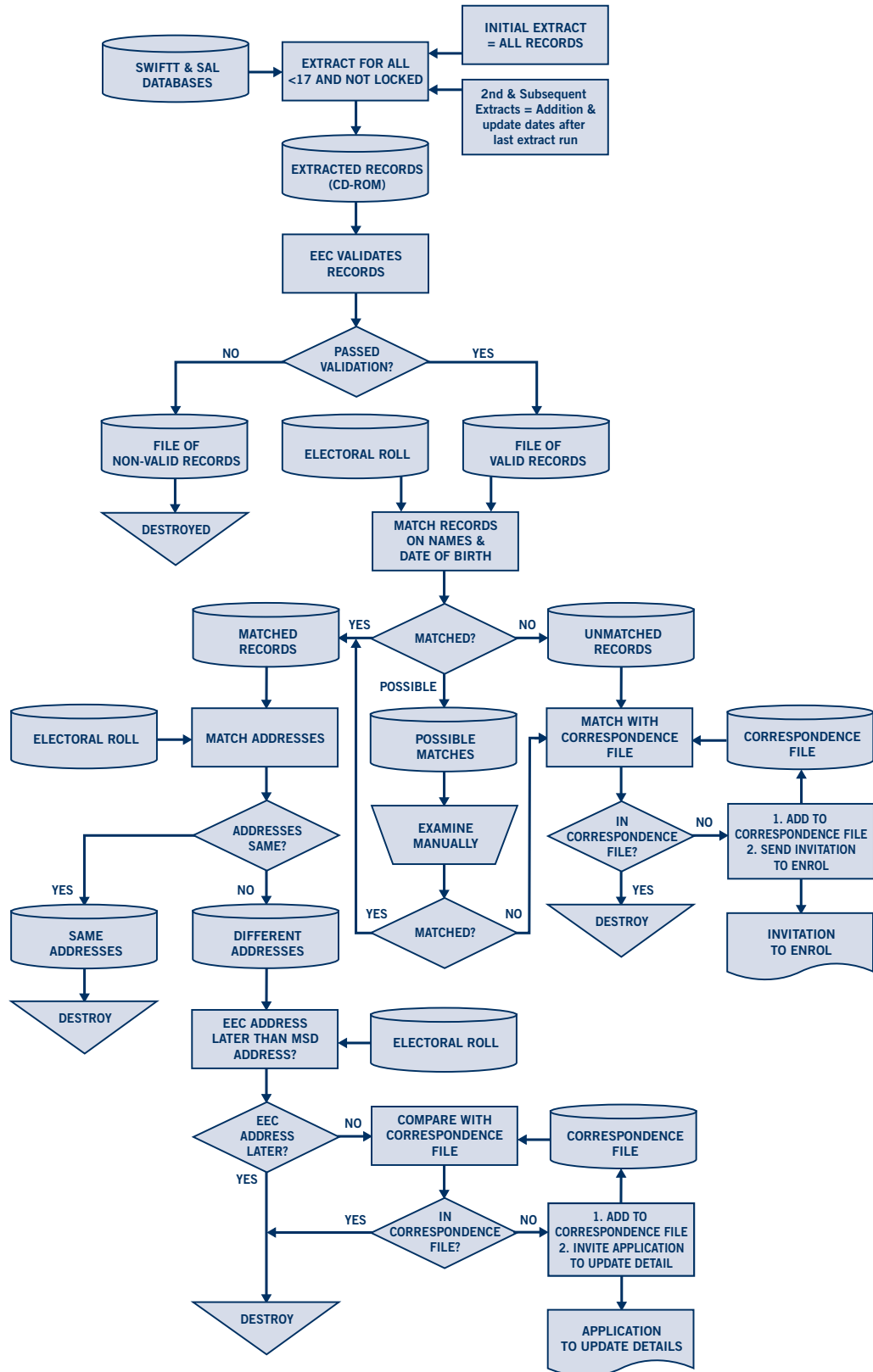
“Not matched” records result in individuals being sent an invitation to enrol. (Those who are 17 years old are invited to provisionally enrol as they are not entitled to enrol until they turn 18.) Before any invitation letters are generated, the records are compared against the “correspondence database”. When a client record appears in more than one source agency file, only the first such record identified is used to generate a letter to the client. This prevents EEC from sending multiple invitations to an individual.

Records from the correspondence database are deleted when the electoral roll is updated for that elector, when EEC receives notice of death or other special circumstances requiring that the person not be contacted again, or when it receives a “gone no address” response that is not contradicted by more recent information during the set of four matches. EEC also maintains a record of information sent to them by the Registrar of Births, Deaths, and Marriages about deaths within the last five years. This is used to ensure that data matching correspondence is not sent to deceased electors.

In September 2003, EEC changed to a new computer system. This incorporates a residential address database which allows EEC to check addresses received from the MoT and eliminate apparent matches where an individual has simply provided MoT with a business contact address rather than their home address. The change took effect for the second of the two match runs operated in this reporting period.



FIGURE 7: MSD/EEC UNENROLLED VOTERS MATCH



**REPORT OF THE PRIVACY COMMISSIONER 2003-2004**

**2003/04 OVERALL RESULTS**

<b>TABLE 20: TOTAL EEC UNENROLLED VOTERS MATCHES 2002 - 04 RESULTS</b>		
	<b>2002/03</b>	<b>2003/04</b>
Number of sets of four runs	2	2
Number of records compared	1,498,076	2,273,302
Number of invitations to enrol sent out	186,595	331,518
Number presumed delivered	174,608	308,164
Enrolments (new & updated)	38,299	80,286
Other responses	914	889
No response	135,395	226,989
Costs	\$204,010	\$232,606
Average cost per enrolment	\$5.33	\$2.90

While the total number of records compared has increased by 52%, the number of invitation letters has increased by 78%, and the number of new and updated enrolments has increased by 110%. Simultaneously the average cost per enrolment has dropped by 46%. The Centre credits the new computer system for these improvements but a second factor may be that the Centre has also become more proficient at operating the matches (this is only the second full year of operation).

The costs include the data match processing costs, printing and stationery charges, mailing costs, and EEC internal processing costs. To date, none of the source agencies have sought a fee for supplying information and none have submitted invoices.

The specific effect of the new computer system can be seen by comparing results from the two match runs this year as shown in Table 21.

<b>TABLE 21: EFFECT OF SWITCH TO NEW COMPUTER SYSTEM</b>		
	<b>July 2003</b>	<b>March 2004</b>
Number of invitations to enrol sent out	82,360	249,158
Invitations as % of records compared	9.21%	16.15%
Enrolments	18,596	61,690
Enrolments as % of invitations sent	22.58%	24.76%
Responses received	442	447
Responses as % of invitations sent out	0.54%	0.18%
Average cost per enrolment	\$6.43	\$1.37

In fact, similar changes can be seen across each match for the July 2003 and March 2004 runs.

These four matches do not involve adverse action, so s.103 notices are not required. However, the invitations to enrol do result in some complaints amongst the other responses. The Centre informs us that the majority of responses to their invitations are to the effect that the individual is not eligible to vote. However, they also receive some complaints from people



who have used their business address to register a motor vehicle for example or from women who prefer to register on the electoral roll in (perhaps) their birth name while using their married name with one of the other match source agencies. EEC flag the relevant records on receipt of all responses so that these people do not receive subsequent letters triggered by the same information. Clearly, new information received in a subsequent match may result in another invitation to enrol being sent out. We are particularly pleased to see that the percentage of responses (including complaints) received has dropped so markedly despite the significant increases in records compared and invitations sent out.

### 15. MSD/EEC UNENROLLED VOTERS MATCH

---

Information matching provision	Electoral Act 1993, s.263B
Year authorised	2002
Commencement date	September 2002
Match type	<ul style="list-style-type: none"><li>• Identifying persons eligible for an entitlement</li><li>• Updating data</li></ul>

**Purpose:** This programme compares MSD records of persons 17 years and older, both beneficiaries and students, with the contents of the electoral roll to:

- identify people who are qualified to vote but who have not enrolled so that they may be invited to enrol to vote (beneficiaries and students), and
- update the addresses of people whose names are already on the roll (beneficiary records only).

**System:** At the request of EEC, MSD extracts from its databases subsets of data for all people 17 years and older, whose records are not “locked”. (Locked records are those where the client has asked for their details to be kept confidential or are those records relating to MSD staff members.) These are sent as two separate files:

- (i) an extract from the SWIFTT database of people who are receiving or have received a benefit, pension or grant, and
- (ii) an extract from the SAL database of those people receiving a student loan or allowance.

The information extracted and sent to EEC is:

- full name – including maiden name
- date of birth
- residential address (or study address for students if known)
- postal address (if different)
- preferred honorific (if known)
- the date MSD created or last amended this record

Since an initial setup run in 2001/02, the files sent are records that have been included since the last run, or records where some key item of information (surname, given name, or address) has changed since the last extract.



## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

### 2003/04 RESULTS:

TABLE 22: MSD/EEC UNENROLLED VOTERS MATCH 2001-2004 RESULTS			
	2001/02	2002/03	2003/04
Number of runs	1	2	2
Records from SWIFFT	904,577	352,981	378,915
Records from SAL	123,688	57,214	158,027
Total number of records compared	904,577	410,195	536,942
Number of invitations to enrol sent out	78,529	61,439	82,759
Number presumed delivered	74,964	58,121	78,595
Enrolments (new & updated)	22,574	12,050	17,982
Other responses	171	63	114
No response	52,219	46,008	60,499
Costs	\$103,436	\$69,019	\$57,649
Average cost per enrolment	\$4.58	\$5.73	\$3.21

The results this year parallel the changes noted for the matches as a group. The total number of records compared has increased by 31% with a corresponding increase in invitations sent out of 35% and an almost 50% increase in enrolments. These improvements are also accompanied by a decrease in the cost per enrolment of 44%.

On the basis of the information supplied, we are satisfied that this programme has been conducted in accordance with the requirements of ss.99 to 103 of the Privacy Act and with the information matching rules.

## 16. CITIZENSHIP/EEC UNENROLLED VOTERS MATCH

Information matching provision	Electoral Act 1993, s.263B
Year authorised	2002
Commencement date	September 2002
Match type	<ul style="list-style-type: none"> <li>Identifying persons eligible for an entitlement</li> <li>Updating data</li> </ul>

**Purpose:** This match is to compare the citizenship register with the contents of the electoral roll to:

- identify people who are qualified to vote but who have not enrolled so that they may be invited to enrol to vote.

**System:** The New Zealand Citizenship Office extracts from the computerised citizenship register subsets of data for individuals who have been granted citizenship in a period specified in the EEC request.

The information extracted and sent to EEC is:

- full name
- date of birth
- address



- preferred honorific (if known)
- date certificate of citizenship was issued.

The matching process is described in the general section for EEC matches.

## 2003/04 RESULTS

	2001/02	2002/03	2003/04
Number of runs	1	2	2
Number of records compared	9,609	16,307	20,834
Number of invitations to enrol sent out	1,865	2,170	1,431
Number presumed delivered	1,794	1,990	1,356
Enrolments (new)	635	376	352
Other responses	18	11	0
No response	1,141	1,603	1,004
Cost	\$7,303	\$5,382	\$1,999
Average cost per enrolment	\$11.50	\$14.31	\$5.68

In its second full year of operation, the number of records matched has increased by nearly 28%, but the number of invitations to enrol and enrolments achieved have both dropped. Looked at as a percentage of the invitations successfully delivered, the picture is rosier, with an increase from 19% to 26%. This may be a reflection of the increased efficiency in the operation of the earlier matches in the match sequence or may reflect better awareness and participation on the part of the target group of new citizens. Notably, the results of this match are entirely new voter records rather than a mix of new and updated records as is the case with the other EEC matches.

On the basis of the information supplied, we are satisfied that this programme has been conducted in accordance with the requirements of ss.99 to 103 of the Privacy Act and with the information matching rules.

## 17. LTSA/EEC UNENROLLED VOTERS MATCH

Information matching provision	Electoral Act 1993, s.263B(3)(b)
Year authorised	2002
Commencement date	September 2002
Match type	<ul style="list-style-type: none"> <li>• Identification of persons eligible for an entitlement</li> <li>• Updating of data</li> </ul>

**Purpose:** The purpose of this match is to compare the drivers licence register with the contents of the electoral roll to:

- identify people who are qualified to vote but who have not enrolled so that they may be invited to enrol to vote
- update the addresses of people whose names are already on the roll.

## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

**System:** The Land Transport Safety Authority (LTSA) extracts from the computerised driver licence register, subsets of data for individuals who are over 17 years of age and whose records have not been “locked”.

The information extracted and sent to EEC is:

- full name
- date of birth
- residential address (if known)
- postal address (if different)
- preferred honorific (if known)
- the date at which LTSA created or last amended this record

The matching process is described in the general section for EEC matches.

### 2003/04 RESULTS:

TABLE 24: LTSA/EEC UNENROLLED VOTERS MATCH 2003- 04 RESULTS		
	2002/03	2003/04
Number of runs	2	2
Number of records compared	398,806	596,296
Number of invitations to enrol sent out	42,820	118,581
Number presumed delivered	40,744	109,242
Enrolments (new & updated)	11,586	31,634
Other responses	217	225
No response	28,941	77,383
Cost	\$46,490	\$83,701
Average cost per enrolment	\$4.01	\$2.65

This year there was a significant increase in number of records matched (50%), invitations to enrol (177%) sent out, and new enrolments achieved (173%). As expected, the average cost per enrolment for the match has dropped into what is expected to be its “normal” range. Match runs 3 through 5 have average costs of \$2.76, \$2.90, and \$2.60 respectively.

On the basis of the information supplied, we are satisfied that this programme has been conducted in accordance with the requirements of ss.99 to 103 of the Privacy Act and of the information matching rules.



## 18. MOT/EEC UNENROLLED VOTERS MATCH

Information matching provision	Electoral Act 1993, s.263B(3)(b)
Year authorised	2002
Commencement date	2002
Match type	<ul style="list-style-type: none"> <li>• Identification of persons eligible for an entitlement</li> <li>• Updating data</li> </ul>

**Purpose:** To compare the motor vehicle register with the contents of the electoral roll to:

- identify people who are qualified to register to vote but who have not done so in order to invite them to enrol
- update the addresses of people whose names are already on the roll.

**System:** The Ministry of Transport extracts from its database of motor vehicle registrations, subsets of data for individuals (17 or older) who registered a vehicle or updated their details in the period specified in the EEC request. MoT assembles the following information about the registered owners selected:

- full name
- date of birth
- residential address (if known)
- postal address (if different)
- preferred honorific (if known)
- the date at which the above information was last provided.

The matching process is described in the general section for EEC matches.

### 2003/04 RESULTS

TABLE 25: MOT/EEC UNENROLLED VOTERS MATCH 2002- 04 RESULTS		
	2002/03	2003/04
Number of runs	2	2
Number of records compared	672,678	1,001,230
Number of invitations to enrol sent out	80,166	128,477
Number presumed delivered	73,753	118,971
Enrolments (new & updated)	14,287	30,318
Other responses	623	550
No response	58,843	88,103
Cost	\$63,620.93	\$89,256.75
Average cost per enrolment	\$5.82	\$2.94

The results for this match show the effects of the new computer system and the checks against the valid residential address database. New enrolments have significantly increased (112%) out of proportion to increases in the number of records received (49%) and letters sent out (60%), while the cost per enrolment has dropped.

## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

On the basis of the information supplied, we are satisfied that this programme has been conducted in accordance with the requirements of ss.99 to 103 of the Privacy Act and the information matching rules.

### 19. NZIS/EEC UNQUALIFIED VOTERS MATCH

Information matching provision	Electoral Act 1993, s.263A
Year authorised	1995
Commencement date	August 1996
Match type	<ul style="list-style-type: none"> <li>• Confirmation of eligibility</li> <li>• Detection of illegal behaviour</li> </ul>

**Purpose:** To enrol to vote in elections an individual must be a citizen or permanent resident of New Zealand. The object of this match is to identify, from immigration records, anyone on the electoral roll who appears not to meet the residence requirements so that their names may be removed from the roll.

**System:** A description of this match process can be found in last year's annual report. It is only run immediately in advance of an election so did not run during this fiscal year. It will be run later in 2004 in anticipation of the local elections.

#### *Matches with other departments as user agency*

The balance of the programme by programme reports are:

- two matches with the Ministry of Justice as the user agency
- two matches with the Passports Office as user agency
- three matches with IRD as user agency
- two matches with ACC as user agency.

### 20. IRD/JUSTICE<sup>1</sup> FINES DEFAULTERS TRACING MATCH

Information matching provision	Tax Administration Act 1994 s.85A
Year authorised	1998
Commencement date	2002
Match type	Location of persons
Unique identifiers	Ministry of Justice Number

**Purpose:** To enable Justice to locate people who are outstanding fines defaulters in order to recover the outstanding amounts.

<sup>1</sup> In previous years, this match was referred to as the IRD/Courts Fines Defaulters match. The name has been changed to reflect the amalgamation of the Department of Courts with the Ministry of Justice.



**System:** Justice selects a range of its outstanding fines defaulters and sends the following information to IRD:

- Ministry of Justice Number
- Client indicator ('I' for an individual, 'N' for non-individuals such as companies)
- Family name
- First name
- Second name(s)
- Date of birth.

IRD attempts to match these records on the basis of last name, first name, second name and date of birth. For matched records the following is returned to Justice on a CD-ROM:

- DfC Number
- Match Indicator (ranging from '1' for a full valid match on all fields compared to '8' a full match on all fields with the exception of family name, to a series of codes for such things as '10' match but no valid address held by IRD, '95' Matched data but date of birth not verified etc.)
- Client address (up to 3 lines)
- Address date
- Telephone numbers.

#### 2003/04 RESULTS:

As reported over the last two years, we found the apparent results of this match and its sibling, the MSD/Courts Fines defaulters match (now MSD/Justice Fines Defaulters match, match 21) worrying. It appeared that a significant proportion of what the Ministry believed were useable matches were being successfully challenged by individuals after receiving s.103 notices. In our 2000/02 report a reduction in the number of successful challenges was reported. However, in that reporting year the rate of successful challenges still seemed unusually high.

Our enquiry last year led to a very thorough investigation by the Department of Courts (now Ministry of Justice) of the processes by which statistics on challenges to s.103 notices were being generated. That investigation identified deficiencies at several points in the systems used for actioning fines: in the Deal Recording System (DRS), the Trace Management System (TMS), and the main processing database (COLLECT). The DRS, for example, was recording each wrong number called by the Contact Centre's automatic dialler as a challenge. The cumulative effect of these fundamental problems was that true challenges of the match information were being seriously overstated.

The nature and interrelations of the deficiencies also meant that fixing those systems was problematic, given that the Ministry was in the process of developing a new software system (TRACE) to replace its existing data-matching software. TRACE is due for implementation in February 2005. Consequently, for several months in late 2003, all challenges were manually recorded in some detail by the Ministry's Collections Unit Contact Centre staff. Those detailed records provided a basis for classifying interactions with callers and enabled the Ministry to develop an interim reporting system to capture the core challenges. It also provided some reassurance that the preliminary conclusions about the deficiencies with the computer systems were correct.

## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

Discussions with this Office resulted in the Ministry agreeing to provide reports using an interim reporting process with two components: basic match statistics on numbers of records and the like, extracted from the COLLECT system, and challenge reporting from a specially designed system operating outside the main systems interfaces. In time, it is expected that the interim system will be replaced with a comparable facility integrated with the new TRACE system.

While we have confidence in the quality of information provided by the Ministry of Justice, the amount of detail available is limited this year.

Table 26 provides, to the extent possible, comparisons of results from previous years with those from the last twelve months. During the second half of 2003, five matches completed processing but results are available for only four and those results share the same problems as results from previous years. Five more matches were in progress during the second half of 2003, one of which has completed processing, but no results are available on those matches and, if they were, they would also suffer from the known problems. We have not reported on the matches which did not complete processing before the interim reporting system started operation.

The results since January 2004 have come from the interim reporting system, with the reliability we believe that system now provides. These are “in progress” results, as each match takes a full twelve months to process and all these match runs occurred after 1 January 2004. It will be interesting in due course to be able to compare results of all runs completed during the reporting period across more than one year.

	2001/02	2002/03	1/7-31/12 2003 (completed)	1/1-30/6 2004 (in progress)
Number of match runs	1	6	4	5
Names sent for matching	19,707	156,265	101,991	200,000
Names matched	8,687	58,432	48,414	65,734
Useable matches <sup>2</sup>	8,667	57,904	47,985	64,072
Cleared before notice <sup>3</sup>	36	12,526	365	Not available
s.103 notices sent <sup>4</sup>		45,378	47,187	66,507
Successfully challenged <sup>5</sup>	3,054	10,669	13,789	68
% of useable matches challenged	35%	18%	29%	0.11%
Collection instituted	1,169	5,184	7,199	13,116
% of useable matches for which collection was instituted	13%	10%	15%	20%

2 “Useable matches” excludes those apparent matches that have invalid address data and those for which Justice has already received a “gone no address” notice for that individual/address combination.

3 “Cleared before notice” refers to those who are identified from internal records as having, in the period between being selected for inclusion in the programme and being matched, paid the fine, entered into an arrangement to pay, had the fine remitted, or been referred back to a court.

4 There are more notices sent this year than successful matches because some previously suspended matches were revitalised.

5 “Successful challenge” are coded as being for one of four reasons: incorrect person i.e. a mismatch; no fines outstanding; deceased; other.



The match results for the most recent six months provide a very different picture from that of previous years. Not only have successful challenges dropped dramatically both in numbers and as a percentage of useable matches, but the percentage of useable matches for which collection has been instituted is already higher in 2004 than in any previous year, even though processing is incomplete. Justice have not been able to provide a value for the arrangements to pay that have been established for this match but the total for both this match and match 21 is \$27,629,172. (If apportioned to this match on the basis of useable matches it would be \$19,910,207.)

The following table shows the breakdown of s.103 challenges for the first six months of 2004.

TABLE 27: IRD/JUSTICE FINES DEFAULTERS TRACING MATCH: S.103 CHALLENGES 1 JANUARY 2004 – 30 JUNE 2004	
Challenges received	90
Challenges withdrawn	0
Unsuccessful challenges	21
Successful challenges	68
Incorrect person identified	37
No fines outstanding at time of match	30
Person owing fines deceased	0
Other	1
Challenges outstanding at 30 June	1

With the exception that the information available for the second half of 2003 is unreliable, on the basis of the information supplied, we are of the opinion that the programme has been operated during 2004 in accordance with ss.99 to 103 of the Privacy Act and with the information matching rules.

## 21. MSD/JUSTICE<sup>1</sup> FINES DEFAULTERS TRACING MATCH

Information matching provision	Social Security Act 1964, s.126A
Year authorised	1996
Commencement date	1998
Match type	Location of persons

**Purpose:** To locate outstanding fines defaulters in order to recover the outstanding amounts.

**System:** The Ministry of Justice selects a range of its outstanding fines defaulters and sends these via electronic media to MSD. MSD supplies address information for any matched records in its database.

<sup>1</sup> In previous years, this match was referred to as the MSD/Courts Fines Defaulters match. The name has been changed to reflect the amalgamation of the Department for Courts with the Ministry of Justice.



## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

### 2003/04 RESULTS

This match was the subject of adverse comment in my report last year for the same reasons as the IRD/Justice Fines Defaulters match (match 20). For a discussion of the follow-up to last year's enquiry about the reliability of the match statistics, please see the description under match 20.

The same caveats apply to the results of this match as to match 20. However, for this match, four runs completed processing between July and December 2003, three other matches were operating in that period but progress reports are not available for two, and four runs started after 1 January 2004. These are all still in progress but statistics to date are available from the interim reporting system. As with match 20, we have not reported on the matches which did not complete processing before the interim reporting system started operation.

<b>TABLE 28: MSD/JUSTICE FINES DEFAULTERS TRACING MATCH: 2001-2004 RESULTS</b>				
	<b>2001/02</b>	<b>2002/03</b>	<b>1/7 - 31/12 2003 (completed)</b>	<b>1/1 - 30/6 2004 (in progress)</b>
Number of match runs			4	4
Names sent for matching	63,467	100,536	100,536	190,625
Names matched	23,376	15,646	16,102	24,936
Useable matches	23,317	15,598	16,047	24,840
Cleared before notice	2,556	3,076	125	NA
s.103 notices sent		15,548	15,506	19,075
Successfully challenged	3,519	2,324	3,170	7
% of useable matches challenged	14.9%	15.1%	19.8%	0.03%
Collection instituted		2,000	2,421	4,801
% of useable matches for which collection was instituted		12.8%	15.1%	19.3%

As with its sibling, this match demonstrates how very misleading the old reporting system was because of over-reported challenges. The 2004 dramatic drop in successful challenges and significant improvement in percentage of useable matches for which collection was instituted is repeated in this match. Justice have noted a relative drop in useable matches (from over 15% to barely 13%) and notices sent out (over 15% to barely 10%) when compared with the full results of last year. Justice have not been able to provide a value for the arrangements to pay that have been established for this match but the total for both this match and match 20 is \$27,629,172. (If apportioned to this match on the basis of useable matches it would be \$7,718,965.)



TABLE 29: MSD/JUSTICE FINES DEFAULTERS TRACING MATCH: S.103 CHALLENGES 1 JANUARY 2004 – 30 JUNE 2004	
Challenges received	8
Challenges withdrawn	0
Unsuccessful challenges	1
Successful challenges	7
Incorrect person identified	4
No fines outstanding at time of match	3
Person owing fines deceased	0
Other	0
Challenges outstanding at 30 June	0

With the exception that the information for the second half of 2003 is unreliable, on the basis of the information supplied we are of the opinion that the programme has been operated during 2004 in accordance with ss.99 to 103 of the Privacy Act and with the information matching rules.

## 22. BDM/DIA(P) PASSPORT ELIGIBILITY MATCH

Information matching provision	Births, Deaths, and Marriages Registration Act 1995, s.78A
Year authorised	2001
Commencement date	2003
Match type	<ul style="list-style-type: none"> <li>• Confirmation of eligibility</li> <li>• Detection of illegal behaviour</li> </ul>
On-line transfers	Yes

**Purpose:** To verify whether a person is eligible for a passport by comparing details with the births, deaths and marriages registers.

**System:** DIA have developed a system called Online Life Event Verification (OLEV) that provides access to an extract of information from the births, marriages, deaths, and citizenship registers without providing direct access to the registers themselves. The extracted information can then be used by other systems such as the passports application processing system.

When a passport application is received from an individual, the application information is entered into the passports processing system. A staff member can then log onto OLEV and enter the unique passport application number to use the identity information from the passports processing system for searching the registers. For searches of the births and marriages entries, confirmation allows application processing to proceed. Where there is doubt, cases can be referred to registry staff for resolution. Passports staff also check information from the register of deaths to ensure that there is no entry there for the applicant. If there appears to be a match with an entry from the register of deaths, the processing of the passport application would be halted and referred for investigation of possible fraud.

## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

### 2003/2004 RESULTS

TABLE 30: BDM/DIA(P) PASSPORT ELIGIBILITY MATCH 2003 – 2004 RESULTS	
	2003-04
Births searches	306,187
Marriages searches	57,464
Deaths searches	447,329
Total searches	810,980
Referred to BDM	928
Resolved <sup>1</sup> within 48 hours	201
Resolved within 10 days	298
Resolved in > 10 days	355
Unresolved at 30 June 2004	44
Passport application denied	0

Last year, we reported on the results of a pilot study started in the last week of the reporting period which covered a mere 44 applications. This year the results are for the whole period (although the match was not fully operational until October 2003). The operation of the reporting function associated with this match is not entirely satisfactory. The reason for this is canvassed in general comments at the end of the report for match 23. That section provides a composite picture of the overall results from this match and its sibling, the DIA(C)/DIA(P) Passports Application Processing match. As stated in that section, because no passport applications have been refused, and DIA has given assurances on the reliability of the numbers of applications processed and the numbers of s.103 notices issued, we are prepared to reserve judgement on the reporting function.

When a search of the registers by passports staff does not appear to confirm the information provided in an application, it will be referred to specialist staff at the relevant registry. If registry staff identify an appropriate record, passport office staff will attempt to contact the applicant and resolve the outstanding difference(s). Only if that process is unsuccessful and fraud is not suspected, will a s.103 notice be sent.

Last year, the pilot study contravened information matching rule 3 by using an on-line connection without our approval. That situation has now been rectified. In November 2003, this match was given approval to use an on-line connection for 12 months. The following conditions apply:

- a) The performance and use of the on-line information transfer systems is audited by or on behalf of the Department by 31 August 2004, to check compliance with this approval.
- b) A summary of the results of the audit or audits prepared under condition 7 will be reported to us by 30 September 2004 together with an explanation by the Department of steps taken to remedy any problems that the audit may reveal.

When the results of the audit have been received and we are satisfied that the programme is operating in accordance with the approval given, consideration will be given to extending it.

With some reservations about the operation of the reporting function this year, and on the basis of the information supplied, we are satisfied that this programme has generally been conducted in accordance with the requirements of ss.99 to 103 of the Privacy Act and the information matching rules.

<sup>1</sup> "Resolved" refers to the amount of time required by passports staff to resolve the questions around the application after they have received a response from registry staff. It does not include the time required for registry staff to identify possible entries that may be relevant.



### 23. CITIZENSHIP/DIA(P) PASSPORT ELIGIBILITY MATCH

Information matching provision	Citizenship Act 1977 s.26A
Year authorised	2001
Commencement date	June 2003
Match type	Confirmation of eligibility
Unique identifiers	Citizenship person ID
On-line transfers	Yes

**Purpose:** To verify, from the citizenship registers, a person's eligibility to hold a New Zealand passport.

**System:** This match mirrors match 22<sup>1</sup> reported above. However, this programme verifies the eligibility of people whose application for a New Zealand passport is based upon citizenship by grant or descent. Passports staff attempt to confirm information provided on the passport application with that in the citizenship register. Confirmation allows processing to continue. If the information cannot be confirmed, the file may be referred to citizenship staff for resolution.

#### 2003/2004 RESULTS

TABLE 31: BDM/DIA(C) PASSPORT ELIGIBILITY MATCH 2003-2004 RESULTS	
	2003-04
Searches	116,146
Referred to Citizenship	165
Resolved <sup>2</sup> within 48 hours	22
Resolved within 10 days	37
Resolved in > 10 days	68
Unresolved at 30 June 2004	15
Passport application denied	0

Last year this match operated as a pilot study together with the BDM/Passports match (match 22) for one week in the reporting period. As only 44 applications were processed, results for this match were not reported separately. This year, the match has been in operation since October and results can be reported separately from its sibling. However, while results are reported separately, essentially these two matches are different functions of the same process for handling passport applications. As with match 22, when a search of the registers by passports staff using OLEV does not appear to confirm the information supplied by the applicant, the application is referred to specialist citizenship staff who attempt to identify the appropriate register entry. If an entry is found, passport office staff attempt to resolve the difference(s) with the applicant. Only when such attempts are unsuccessful is a s.103 letter sent.

1 BDM/DIA(P) Passport Eligibility Match.

2 "Resolved" refers to the amount of time required by Passports staff to resolve the questions around the application after they have received a response from registry staff. It does not include the time required for registry staff to identify possible entries that may be relevant.

## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

The pilot study contravened information matching rule 3 by using an on-line connection without our approval. That situation has now been rectified. In November 2003, this match received approval to use an on-line connection for 12 months. The following conditions apply:

- a) The performance and use of the on-line information transfer systems is audited by or on behalf of the Department by 31 August 2004, to check compliance with this approval.
- b) A summary of the results of the audit or audits prepared under condition 7 will be reported to us by 30 September 2004 together with an explanation by the Department of steps taken to remedy any problems that the audit may reveal.

When the results of the audit have been received and we are satisfied that the programme is operating in accordance with the approval given, consideration will be given to extending it.

### COMPOSITE RESULTS FOR PASSPORTS APPLICATIONS PROCESSING

TABLE 32: DIA PASSPORT ELIGIBILITY MATCHES 2003-2004 COMPOSITE RESULTS	
	2003-04
Applications in process during year (A)	117,642
Applications completed processing during year	101,855
Searches in Citizenship Register (B)	116,146
Searches in Births, Deaths, & Marriages Registers (C)	810,980
Total searches in all four registers (B+C = D)	927,126
Average number of searches performed per application processed during the year (D/A)	7.88

As these two matches (match 22 and match 23) operate in tandem, it is useful to examine the overall results of both matches. Initial results suggested a surprisingly high average number of searches per application processed. Any application may require multiple searches of the registers. At the very least, each application will require a search of either the birth or citizenship register or both, and the death register. Many will require a search of the marriage register and a second search of the death register under the married name. Applications for a passport for someone under sixteen years will require searches of the registers to ascertain that the person providing consent on the application form is the applicant's parent. Small differences in spellings between the register information and that supplied on the application form may trigger multiple searches, as would data entry mistakes by passports staff. However, even accounting for these possibilities, the average seemed excessive and could be a matter of concern from a privacy perspective.

When this apparent anomaly was queried, DIA discovered that the OLEV function for correlating/counting statistics seemed to have a flaw that caused it to overstate the number of searches. It is believed that the flaw has been corrected and we have been provided with figures for searches that were obtained by directly querying the passport processing system rather than the OLEV function. These revised figures seem more in line with what one might expect - given the potential for multiple searches required for each passport application.



We are assured that the numbers for passport applications processed, s.103 notices processed, and applications refused (none) during the year are accurate. As these relate directly to the individuals affected, we are prepared to reserve judgement on the reporting question. We will follow the progress of this match and its reporting, closely in the coming year.

With some reservations about reporting system, and on the basis of the information supplied, we are satisfied that this programme has generally been conducted in accordance with the requirements of ss.99 to 103 of the Act and the information matching rules.

## 24. MSD/IRD FAMILY SUPPORT DOUBLE PAYMENT MATCH

Information matching provision	Tax Administration Act 1994, s.84
Year authorised	1993
Commencement date	1995
Match type	Confirmation of continuing eligibility
Unique identifiers	Tax file number

**Purpose:** To identify individuals who have wrongly received family tax credits from both MSD and IRD.

**System:** IRD sends an extract of their family support records to MSD who match this against their file of family support recipients. If a person is found in both files, that person's details are sent back to IRD to have the family support credits from IRD cancelled and, if appropriate, establish a debt for the amounts overpaid.

### 2003/04 RESULTS

TABLE 33: MSD/IRD FAMILY SUPPORT DOUBLE PAYMENT MATCH: 2000-2004 RESULTS				
	2000/01 9 Runs	2001/02 9 Runs	2002/03 17 Runs	2003/04 24 Runs
Cases sent by IRD to MSD for matching	1,031,512	1,006,896	1,819,630	2,487,950
Cases matched by MSD	10,202	8,243	8,685	8,222
Cases of adverse action taken	8,846	7,319	7,273	6,743
Costs incurred by IRD	\$539,381	\$153,488	\$459,388	\$1,111,979
Savings (estimated) <sup>1</sup>	\$21,754,920.72	\$19,197,317	\$17,238,073	\$15,938,864

This year is the first full year of reporting where matches were run twice per month, and the number of cases sent for matching has increased. Conversely, the number of cases matched and adverse action taken have dropped even when compared to last year, as have the prospective savings, while the cost to run the match has more than doubled.

<sup>1</sup> Calculated by determining the amount of the payments stopped, multiplied by the number of fortnights left in the customer's tax year, i.e. to the end of March (when the payment ought normally be stopped/reviewed because of filing a tax return).

## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

---

We understand that the estimated savings figure does not include any offsetting amount for the proportion of the overpayments avoided which may have been recoverable eventually by Inland Revenue. Neither does it allow for the cost of recovery after an overpayment is established, nor for administration costs for unsuccessful recovery attempts. As such, the estimated savings for this match probably overstate the amount that would otherwise have been lost: IRD would probably recover at least some of the money in the absence of the match.

IRD has indicated that it intends to review the formula it is currently using to estimate the savings to take account of the comments we have made in previous years about the estimated savings figures. Given the cost of this match, a more accurate estimate of the benefits of this match will be valuable.

However, even if the true savings of this programme are actually substantially lower than the estimated amounts shown (indeed even if only a tenth of the figure which might otherwise have been paid) then this match still would show a net benefit.

Following the 2004 Budget, a further information matching provision was enacted to improve the management of the family support programme by automatically exchanging information about clients between MSD and IRD as clients notify either agency of a change in their circumstances. The new programme is expected to reduce the number of cases identified in this older programme by providing a bridging arrangement when a client moves into and out of paid employment. It is believed that this programme would still be required to address fraud - as opposed to error on the part of beneficiaries or the department where notification is not made or processed properly. Perhaps as the new programme is brought into operation, IRD may choose to operate this match less frequently.

IRD has reported that no challenges were received.

On the basis of the information supplied, we are satisfied that this programme has been conducted in general accordance with the requirements of ss.99 to 103 of the Privacy Act and the information matching rules.



## 25. MOE/IRD STUDENT LOAN INTEREST WRITE-OFF MATCH (NO 1)

Information matching provision	Tax Administration Act 1994, s.85D
Year authorised	2000
Commencement date	2001
Match type	<ul style="list-style-type: none"> <li>• Confirmation of entitlement</li> <li>• Updating data</li> </ul>
Unique identifiers	<ul style="list-style-type: none"> <li>• Tax file number</li> <li>• Institution student number</li> </ul>

**Purpose:** To enable interest that has accrued on a student loan to be written off for periods where a student is studying full time or is on a low income and studying part time.

**System:** This match operates monthly, as a complement to the match run in March and May (match 26). In this match, students can apply directly to IRD for the interest write-off and IRD then requests verification from MoE of the information provided by the student. Most are matched using an automatic file extraction of IRD records sent to MoE, but for those cases where a student is enrolled with more than one education provider, the MoE database is checked manually. If the match process does not confirm their claim, they are sent a s.103 notice. Students may respond with corrected/additional information through an 0800 number or an internet website form. If something more than a corrected or additional number or name is required, the student is provided with a study confirmation form IR 887 to give to their educational provider.

### RESULTS 2003/04

Over the last year the programme operated 10 runs between July 2003 and June 2004, with some runs covering just single-site enrolments and others also covering multi-site enrolments. Table 34 shows the results of these runs:

	Academic Year 2001	Academic Year 2002	Academic Year 2003	July 2003 – June 2004
IRD records sent	89,187	18,896	14,818	18,085
Records matched	81,559	12,385	11,435	11,655
Unmatched records	7,238	3,202	3,383	6,430
Confirmed full time students	58,395	9,080	7,981	6,729
Confirmed part time students	23,164	2,677	2,345	2,102
Failed matches <sup>2</sup>	390	4,245	1,117	2,903

2 “Failed Matches” are, for automated matches, where the data on the IRD file has altered between when it was extracted and when the response from the Ministry is processed so the result cannot be updated. Alternatively, and for manual matches, it is those where the IRD tax file number has been incorrectly provided by the Ministry. Remedial action is instigated within two days.



**REPORT OF THE PRIVACY COMMISSIONER 2003-2004**

As expected, since 2001, the number of students using this method to obtain the write-off has dropped significantly, as more students use the process covered in match 26. However, this year's results tend to suggest that the drop-off has stabilised. There is a high rate of unmatched and failed matches reported this year. IRD believe that the high number of unmatched records is the result of a system problem experienced by MoE in April, where all part-time student claims (approximately 2,000) were reported as unmatched. The problem was corrected the following month. It will be interesting to see the rate of failed matches next year, to see if it decreases along with the decrease in unmatched records that can be anticipated in the absence of similar system problems.

**TABLE 35: MOE/IRD STUDENT LOAN INTEREST WRITE-OFF MATCH (No. 1)  
 S.103 2002-2004 RESULTS**

Issued for tax year ended:	Year of Issue of Notice		
	2002/03	2003/04	Cumulative
31/03/2001	5,487	376	5,863
31/03/2002	1,904	1,127	3,031
31/03/2003	591	754	1,345
31/03/2004		638	638
Total number issued	7,982	2,895	10,877

As was the case last year, we can report on s.103 notices issued by IRD as a result of this match, but not on any challenges filed by students. IRD are unable to report on challenges to those notices because the students must deal with MoE for corrections to their enrolment records. Each notice issued relates to a single interest write-off application and a student may submit multiple applications in any one year, as some may be for retroactive interest write-offs. Students may apply for a retroactive write-off if they believe they were eligible in an earlier year but failed to apply at that time. Consequently, a single student may receive multiple s.103 notices in one year if they submit applications for interest write-offs for more than one tax year. Thus, each year IRD issues s.103 notices that relate to write-off claims for previous tax years as well as the current year.

On the basis of the information supplied, we are satisfied that this part of the programme has, in general, been conducted accordance with the requirements of ss.99 to 103 of the Privacy Act and the information matching rules.



## 26. MOE/IRD STUDENT LOAN INTEREST WRITE-OFF MATCH (NO 2)

Information matching provision	Education Act 1989, s.307C
Year authorised	2001
Commencement date	2001
Match type	<ul style="list-style-type: none"> <li>• Confirmation of entitlement</li> <li>• Updating data</li> </ul>
Unique identifiers	<ul style="list-style-type: none"> <li>• Tax file number</li> <li>• Institution Student Number</li> </ul>

**Purpose:** To enable interest that has accrued on a student loan to be written off in respect of periods where a student is studying full time or is on a low income and studying part time.

**System:** The Ministry of Education extracts data from enrolment forms collected from tertiary providers and sends it to Inland Revenue to match against borrower records. In this match, the student supplies his or her tax file number to the educational institution at enrolment, rather than applying to IRD for the write-off. The institution, which has no other purpose in receiving the tax file number, passes it along to MoE in their student returns. This match is run twice a year in March and May.

### 2003/04 RESULTS

TABLE 36: MOE/IRD STUDENT LOAN INTEREST WRITE-OFF MATCH (No. 2) 2001 - 2004 RESULTS			
	2001/02	2002/03	2003/04
Records received by IRD	124,487	166,426	173,639
Matched full time students	43,909	58,748	71,779
Matched part time students	35,176	50,770	48,229
Failed matches total	47,988	56,904	54,111
Failed - no loan <sup>1</sup>	Not reported	34,800	38,385
Failed - no balance owed <sup>2</sup>	Not reported	4,000	5,570
Residual failed matches	Not reported	18,104	10,664

Again this year the total number of records received by IRD has increased and the corresponding proportion of failed matches has dropped. Given our previous reservations about the lack of s.103 notices in this match, we are pleased to see this steady improvement in the apparent effectiveness of the operation. It is particularly pleasing to see that the residual failed matches have also dropped, both as an absolute number and as a proportion of the total records received. Of those residual failed matches, IRD reported that 10,353 were investigated and no action is required because either no loan is recorded or no balance is owed. Residual failed matches that were not actioned manually (311 cases) include those where the record is for a non-resident or the date of birth is significantly mismatched.

<sup>1</sup> These are students who studied during the year in question but did not have a loan. During the registration process, many students provide their IRD number because there is a place for it on the forms, even though they do not have a loan at the time.

<sup>2</sup> These students either have a zero balance on their loan or they have only been approved for a loan in that year and the interest and its corresponding write-off do not become due for another year.

## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

**Combined results:** Table 37 displays the combined results of full interest write-off for the two matches.

TABLE 37: MOE/IRD STUDENT LOAN INTEREST WRITE-OFF MATCHES (NO. 2) 2001 - 2004 RESULTS			
	2001/02 Full Year	2002/03 Full Year	2003/04 Full Year
Full Interest Write-Off	\$69,957,688	\$74,061,383	\$106,900,824
Borrowers	78,335	81,437	104,791

Clearly, there has been a notable growth both in the number of student borrowers entitled to a full interest write-off and their indebtedness this year. These borrower numbers have grown by 29% and the interest written off for them has grown by 44% since last year. These would seem to be significant benefits for the students involved.

Apart from the remaining doubt about the lack of s.103 notices mentioned above, based on the information which has been supplied, we are of the opinion that this programme has been conducted in accordance with the requirements of ss.99 to 103 of the Privacy Act and the information matching rules.

## 27. CORRECTIONS/ACC INMATES MATCH

Information matching provision	Injury Prevention, Rehabilitation and Compensation Act 2001, s.280(2)
Year authorised	1992
Commencement date	2000
Match type	<ul style="list-style-type: none"> <li>• Confirmation of continuing eligibility</li> <li>• Detection of illegal behaviour</li> <li>• Detection of errors</li> </ul>

**Purpose:** To ensure that prison inmates are not receiving earnings-related accident compensation payments.

**System:** The Department of Corrections provides a file of all new prison admissions to ACC. This is compared with the records of people receiving earnings related accident compensation.

### 2003/04 RESULTS

Last year, ACC reported that they had identified technical problems with the matching process meaning that records of imprisoned claimants were missed instead of being identified as positive matches. At the time, it was believed that the problem would soon be resolved. In fact it took until May 2004, 15 months from when the problem was first recognised, for the matching software to be useful again. The software was put back into operation in July 2004 after testing. Consequently, there are no results to report this year. We have been assured that all records that could not be acted on within the permitted time limits have been destroyed, as required.



TABLE 38: CORRECTIONS/ACC INMATES MATCH 2000-2004 RESULTS (AS AT 30 JUNE 2004)				
	2000/01	2001/02	2002/03	2003/04
Number of runs	42	50	51	0
Number of records compared	27,425	82,444	91,219	0
Number of 'positive' matches	8,756	11,339	12,770	0
Debts established (number)	121	45	27	0
Overpayments established	\$39,851	\$20,403	\$13,095	\$0
Challenges	3	4	0	0
Challenges successful	0	1	0	0

While this Office was kept informed about the situation during the year, it appeared that getting the programme operational was a low priority for ACC. We are assured that ACC still regards the match as having a deterrent effect and as a valuable tool in reducing the impact of this type of debt on the accident compensation scheme.

## 28. IRD/ACC RESIDUAL CLAIMS LEVIES MATCH

Information matching provision	Injury Prevention Rehabilitation and Compensation Act 2002, s.246
Year authorised	2000
Date commenced	July 2002
Match type	Updating of data
Unique identifiers	Tax file number

**Purpose:** The purpose of this match is to transfer from IRD to ACC the information required to calculate and collect premiums and residual claims levies.

**System:** IRD provides ACC with a weekly extract from their files containing the following information for all employers (including close companies with less than 25 shareholder employees, self employed persons and private domestic workers):

- Name and contact information
- Date of birth for self-employed
- Start and cease dates for employers
- IRD number of employer or self-employed
- Annual aggregate employer payroll data consisting of liable employee earnings up to the ACC maximum, totalled per employer
- Self-employed, domestic workers, and close held company earnings data
- New or updated record indicator

A complete description of the operation of this match can be found in last year's annual report. The ACC levy invoice includes a statement about where the information was obtained and what dispute provisions are available, including a formal review of the assessment. No separate adverse action notice is issued.

REPORT OF THE PRIVACY COMMISSIONER 2003-2004

2003/04 RESULTS

TABLE 39: IRD/ACC RESIDUAL CLAIMS LEVIES MATCH 2002-2004 RESULTS		
	2002/03	2003/04
Information received on employers	248,000	459,623
Information received on self-employed persons	445,000	428,451
Invoices issued to employers	234,000	241,700
Invoices issued to self-employed persons	319,000	268,000
Total applications for formal review	82	58
Applications by individuals	60	NA
Applications by corporations	22	NA
Applications by unspecified	1	NA
Decided in favour of ACC or withdrawn	81	40
Decided in favour of applicant	1	2
Applications in progress		10
Total Cost	\$9,000,000	\$9,000,000

This match is unusual in that the matched information includes information about both individuals and corporations. The latter causes little concern from a privacy perspective. For this reason, it is unfortunate that various changes at ACC this past year have made it impossible for it to provide a breakdown between individuals and companies of the number of reviews requested. This is of particular concern as the bulk of applications for review last year were by individuals, albeit that most were decided in ACC's favour. We have been assured that this information will be available next year. For this year, we are somewhat reassured that the total number of applications has dropped by 29% (from 82 to 58) while the number of invoices issued to individuals has dropped by only 16%. This would seem to suggest that the processes caused less concern this year to individuals whose information was used in the match.

The costs for this operation are not recorded separately but are reported as being about 40% of the total service cost of \$22.5 million for programmes with IRD (i.e. about \$9 million).

ACC states that benefits for employers include simplified IR3 reporting for the self-employed, the elimination of the separate employer's declaration to IRD for ACC purposes (the IR68A return), simplified business processes because all ACC dealings are now directly with ACC rather than partly with IRD, and fewer routine contacts required with ACC.

With the reservation about the lack of detailed information on applications for formal review and on the basis of the information supplied, we are satisfied that this programme has generally been conducted in accordance with the requirements of ss.99 to 103 of the Privacy Act and the information matching rules as modified by the authorising legislation.



## V. OFFICE AND FUNCTIONS OF THE PRIVACY COMMISSIONER

### INDEPENDENCE AND COMPETING INTERESTS

The Privacy Commissioner is independent of the Executive. This means she can be seen to be free from influence by the Executive when investigating complaints, including those against ministers or their departments. Independence is also important when examining the privacy implications of proposed new laws and information matching programmes.

The Privacy Commissioner has wide ranging functions. The Privacy Act requires the Commissioner to have regard both to the information privacy principles and to the protection of important human rights and social interests that compete with privacy. Other interests that can compete with privacy include the desirability of a free flow of information and the right of government and business to achieve their objectives in an efficient way. The Commissioner must also take account of New Zealand's international obligations, including those concerning the international technology of communications, and consider any general international guidelines that are relevant to the better protection of individual privacy.

### COMPLAINTS

One of the Privacy Commissioner's key functions is to receive and investigate complaints about an interference with privacy. This process is described in detail elsewhere in this report.

### EDUCATION AND PUBLICITY

Part of the Commissioner's role involves promoting an understanding and acceptance of the information privacy principles. An enquiries officer answers questions from members of the public and maintains an 0800 number so that people may make enquiries without charge from anywhere in New Zealand. High demand for this service has meant callers must now leave messages. These are usually responded to within one working day.

The Office website contains many publications, including codes of practice, case notes, fact sheets, newsletters, speeches and reports. Increasingly, enquirers are directed to it for the information they require.

Investigating staff conduct regular workshops and seminars, tailored as required to the audience, on both the Privacy Act and the Health Information Privacy Code; and a full-day workshop aimed at the mental health sector.

## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

---

The Office maintains open communication with the news media, part of the Commissioner's role is to make public statements on matters affecting privacy. When speaking publicly on issues the Commissioner may act as a privacy advocate, but must also have regard to wider, competing, considerations.

### INFORMATION MATCHING PROGRAMMES

Another key area of work is in monitoring the growing number of government information matching programmes, which must be carried out in accordance with the provisions of the Privacy Act.

### CODES OF PRACTICE

The Privacy Commissioner may issue codes of practice. A code of practice can modify the information privacy principles by:

- prescribing standards that are more or less stringent than those prescribed by the principles;
- exempting any action from a principle, either unconditionally or subject to any prescribed conditions.

A code may also prescribe how the information privacy principles are to be applied or complied with in a particular industry or sector.

### LEGISLATION AND POLICY

One of the Commissioner's most significant roles is to comment on legislative, policy or administrative proposals that have some impact on the privacy of the individual or classes of individuals. Many such recommendations are adopted by government departments, cabinet committees or by select committees in the course of their consideration of policy and legislative proposals. In every case the Commissioner must have due regard for interests that compete with privacy.

### OTHER FUNCTIONS OF THE PRIVACY COMMISSIONER INCLUDE:

- monitoring compliance with the public register privacy principles;
- reporting to the Prime Minister on any matter that should be drawn to her attention and, particularly, the need for and the desirability of taking legislative, administrative or other action to give protection or better protection to the privacy of the individual.

### REPORTING

The Privacy Commissioner reports to Parliament through the Minister of Justice, and is accountable as a Crown entity under the Public Finance Act 1989.



At 30 June 2004, the following staff were employed in the Auckland and Wellington Offices.

<b>Marilyn Andrew</b>	Support staff (part-time)
<b>Phillipa Ballard</b>	Manager Investigations
<b>Maggie Daniell</b>	Investigating Officer
<b>Ina de Polo</b>	Support staff
<b>Kim Eddleston</b>	Librarian (part-time)
<b>Nick Farrands</b>	Investigating Officer
<b>Annabel Fordham</b>	Senior Legal and Communications Adviser
<b>Margaret Gibbons</b>	Support staff
<b>Fred Henderson</b>	Enquiries Officer
<b>Sharyn Leonard</b>	Support staff (part-time)
<b>Janice Maddox</b>	Investigating Officer
<b>Judith Manoa</b>	Investigating Officer
<b>Sebastian Morgan-Lynch</b>	Investigating Officer
<b>Josephine Munro</b>	Investigating Officer
<b>Sharon Newton</b>	Support staff
<b>Glenda Osborne</b>	Accounts Clerk (part-time)
<b>Emma Pond</b>	Investigating Officer
<b>Jenna Reid</b>	Investigating Officer
<b>Phillip Shaw</b>	Investigating Officer
<b>Amir Shrestha</b>	Support staff
<b>Lindy Siegert</b>	Data Matching Compliance Officer
<b>Blair Stewart</b>	Assistant Commissioner
<b>Ophelia Waite</b>	Investigating Officer
<b>Eric Watt</b>	Investigating Officer
<b>Wayne Wilson</b>	Senior Legal and Policy Adviser

The General Manager, Gary Bulog, is employed on a part-time contract basis to provide management services. Other part time contract staff are variously involved in management, legal, enquiries, writing, accounting and publication work for the Office.



REPORT OF THE PRIVACY COMMISSIONER 2003-2004

## VI. TABLES

TABLE 1: COMPLAINTS RECEIVED AND CLOSED 1999-2004					
	1999/00	2000/01	2001/02	2002/03	2003/04
Complaints received	798	881	1044	928	934
Complaints closed	956	806	1049	915	1168

TABLE 2: COMPLAINTS INVOLVING ACCESS BY SECTOR 1999-2004					
	1999/00	2000/01	2001/02	2002/03	2003/04
Private sector	142	146	137	161	172
Public sector	241	201	248	289	254
Total	383	347	385	450	426
	1999/00 %	2000/01 %	2001/02 %	2002/03 %	2003/04 %
Private sector	37	47	36	36	40
Public sector	63	53	64	64	60

TABLE 3: COMPLAINTS INVOLVING DISCLOSURE BY SECTOR 1999-2004					
	1999/00	2000/01	2001/02	2002/03	2003/04
Private sector	161	185	204	163	181
Public sector	103	150	169	119	111
Total	264	335	373	282	292
	1999/00 %	2000/01 %	2001/02 %	2002/03 %	2003/04 %
Private sector	61	55	55	58	62
Public sector	39	45	45	42	38

TABLE 4: ALLEGED BREACHES 2003/04 <sup>1</sup>		
Alleged Breach	Total	Percentage
Information Privacy Principle (IPP) 1 – Purpose	31	2.70
IPP 2 – Source	33	2.87
IPP 3 – Collection	39	3.39
IPP 4 – Manner	32	2.78
IPP 5 – Storage	35	3.04
IPP 6 – Access	353	30.70
IPP 7 – Correction	61	5.30
IPP 8 – Accuracy	59	5.13
IPP 9 – Retention	10	0.87
IPP 10 – Use	17	1.48
IPP 11 – Disclosure	242	21.04
Section 35 – Charges	1	0.09
Health Information Privacy Code (HIPC) Rule 1	8	0.17
HIPC Rule 2 – Source	3	0.26
HIPC Rule 3 – Collection	7	0.61
HIPC Rule 4 – Manner	1	0.09

Table continued on page 98

1. The total exceeds the total number of complaints received as some complainants alleged a breach of more than one principle or rule.



## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

HIPC Rule 5 – Storage	22	1.91
HIPC Rule 6 – Access	73	6.35
HIPC Rule 7 – Correction	22	1.91
HIPC Rule 8 – Accuracy	18	1.57
HIPC Rule 9 – Retention	3	0.26
HIPC Rule 10 – Use	1	0.09
HIPC Rule 11 – Disclosure	50	5.16
HIPC Rule 12 – Unique Identifiers	1	0.09
Health Act, section 22F	14	1.22
HIPC Clause 6 – charges	2	0.17
N/A	12	1.04
<b>Total</b>	<b>1202</b>	

**TABLE 5: AGENCY TYPE 2003/04**

Agency Type	Total	Percentage
Government	331	35.44
Other (business)	136	14.56
Health (other)	68	7.28
Education	52	5.57
Hospital	45	4.82
Credit Reporting Agency	34	3.64
Medical Centre (GP)	34	3.64
Banking	30	3.21
Law Firm	29	3.10
Local Authority	19	2.03
Individual Trust	17	1.82
Debt Collection Agency	16	1.71
Telecommunications	15	1.61
Insurance	13	1.39
Industry Association	13	1.39
Media	10	1.07
Real Estate	10	1.07
Courts	9	0.96
Club	8	0.86
Religious Organisation	7	0.75
Incorporated Societies	7	0.75
Voluntary Organisation	6	0.64
Accountant	6	0.64
Trust	5	0.54
Trade Union	3	0.32
Private Investigator	3	0.32
Insurance (health)	3	0.32
Landlord/Tenant	2	0.22
Direct Marketing	1	0.11
Casino	1	0.11
Personnel Agency	1	0.11
<b>Total</b>	<b>934</b>	

## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

Agency	Number of Complaints
ACC	74
NZ Police	65
Ministry of Social Development	39
Baycorp Advantage	32
NZIS	26
Department of Corrections	26
CYFS	22
Telecom	11
IRD	10
Department for Courts (now Ministry of Justice)	8

	1999/00	2000/01	2001/02	2002/03	2003/04
Telephone	5,232	6,104	6,417	6,298	5,928
Written	571	428	321	490	534
Visitor	*	31	34	34	25
Total	5,803	6,563	6,772	6,822	6,487
Av. per month	484	547	564	568	540
*figures not available					

	1999/00	2000/01	2001/02	2002/03	2003/04
Referrals to DHRP	4	0	0	3	0

	1999/00	2000/01	2001/02	2002/03	2003/04
New proceedings	27	28	22	23	19
Settled or withdrawn	4	5	10	7	6
Struck out	12	13	1	1	7
Dismissed	1	5	5	7	7
Interference	2	2	0	3	2

Year	Number of consultations
1999/00	52
2000/01	50
2001/02	54
2002/03	33
2003/04	32

<sup>1</sup> Prior to 2001 the DHRP was known as the Proceedings Commissioner.



## VII. FINANCIAL AND PERFORMANCE STATEMENTS

### CONTENTS

---

GOVERNANCE AND ACCOUNTABILITY STATEMENT	101
STATEMENT OF RESPONSIBILITY	103
REPORT OF THE AUDITOR-GENERAL	104
STATEMENT OF ACCOUNTING POLICIES	106
STATEMENT SPECIFYING FINANCIAL PERFORMANCE	108
STATEMENT OF OBJECTIVES AND SERVICE PERFORMANCE	109
STATEMENT OF FINANCIAL PERFORMANCE	117
STATEMENT OF MOVEMENTS IN EQUITY	118
STATEMENT OF FINANCIAL POSITION	119
STATEMENT OF CASH FLOWS	120
STATEMENT OF COMMITMENTS	121
STATEMENT OF CONTINGENT LIABILITIES	121
NOTES TO THE FINANCIAL STATEMENTS	122

---

## GOVERNANCE AND ACCOUNTABILITY STATEMENT

---

### ROLE OF THE PRIVACY COMMISSIONER

The Minister has appointed the Privacy Commissioner. The Privacy Commissioner's governance responsibilities include:

- Communicating with the Minister and other stakeholders to ensure their views are reflected in Privacy Commissioner's planning
- Delegating responsibility for achievement of specific objectives to the chief executive
- Monitoring organisational performance towards achieving objectives
- Accounting to the Minister on plans and progress against them
- Maintaining effective systems of internal control.

### STRUCTURE OF THE PRIVACY COMMISSION

#### PRIVACY COMMISSIONER'S OPERATIONS

The Commissioner manages all THE OFFICE OF THE PRIVACY COMMISSIONER operations. All employees of THE OFFICE OF THE PRIVACY COMMISSIONER have been appointed by the Commissioner. The Commissioner directs the management team by delegating responsibility and authority for the achievement of objectives through setting policy.

#### QUALITY ASSURANCE

The Privacy Commissioner ensures quality assurance processes through the application of quality standards, recruitment of suitably qualified staff, use of appropriate delegations and oversight of the activities undertaken by the Office.

#### SUBSIDIARIES

There are no subsidiaries to the Commissioner and the core organisation.

### GOVERNANCE PHILOSOPHY

#### COMMISSION MEMBERSHIP

The Privacy Commissioner is appointed by the Governor General on the recommendation of the responsible Minister. There are no persons who might be considered as having a membership of the Office.



#### **CONNECTION WITH STAKEHOLDERS**

The Commissioner acknowledges responsibility to keep in touch with stakeholders and, in particular, to remain cognisant of the responsible Minister's expectations.

#### **DIVISION OF RESPONSIBILITY BETWEEN THE COMMISSIONER AND MANAGEMENT**

A key to the efficient running of THE OFFICE OF THE PRIVACY COMMISSIONER is that there is a clear division between the roles of the Commissioner and management. The Commissioner concentrates on setting policy and strategy, then monitors progress toward meeting objectives. Management is concerned with implementing policy and strategy. The Commissioner clearly demarcates these roles by ensuring that the delegation of responsibility and authority to managers is concise and complete.

#### **ACCOUNTABILITY**

The Commissioner holds monthly meetings to monitor progress toward its strategic objectives and to ensure that the affairs of THE OFFICE OF THE PRIVACY COMMISSIONER are being conducted in accordance with the Commissioner's policies.

#### **RISK MANAGEMENT**

The Commissioner acknowledges ultimate responsibility for the management of risks to THE OFFICE OF THE PRIVACY COMMISSIONER. The Commissioner has charged the General Manager to prepare a risk management policy by establishing and operating a risk management programme in accordance with the Australia/New Zealand standard 4360:1995 Risk Management.

#### **LEGISLATIVE COMPLIANCE**

The Commissioner acknowledges responsibility to ensure the organisation complies with all legislation. The Commissioner has delegated responsibility to the General Manager for the development and operation of a programme to systematically identify compliance issues and ensure that all staff are aware of legislative requirements that are particularly relevant to them.

REPORT OF THE PRIVACY COMMISSIONER 2003-2004

---

STATEMENT OF RESPONSIBILITY  
FOR THE YEAR ENDED 30 JUNE 2004

---

The Privacy Commissioner accepts responsibility for the preparation of the annual Financial Statements and the judgements used in them.

The Privacy Commissioner accepts responsibility for establishing and maintaining a system of internal control designed to provide reasonable assurance as to the integrity and reliability of financial and non financial reporting.

In the opinion of the Privacy Commissioner the annual Financial Statements for the year ended 30 June 2004, fairly reflect the financial position and operations of the Privacy Commissioner.



PRIVACY COMMISSIONER  
**(M Shroff)**  
26 October 2004



GENERAL MANAGER  
**(G F Bulog)**  
26 October 2004



Audit New Zealand

**AUDIT REPORT  
TO THE READERS OF  
THE PRIVACY COMMISSIONER'S  
FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2004**

The Auditor-General is the auditor of the Privacy Commissioner. The Auditor-General has appointed me, Richard Briggs, using the staff and resources of Audit New Zealand, to carry out the audit of the financial statements of the Privacy Commissioner, on his behalf, for the year ended 30 June 2004.

**Unqualified opinion**

In our opinion the financial statements of the Privacy Commissioner on pages 8 to 29:

- ▲ comply with generally accepted accounting practice in New Zealand; and
- ▲ fairly reflect:
  - the Privacy Commissioner's financial position as at 30 June 2004;
  - the results of its operations and cash flows for the year ended on that date; and
  - its service performance achievements measured against the performance targets adopted for the year ended on that date.

The audit was completed on 28 October 2004, and is the date at which our opinion is expressed.

The basis of the opinion is explained below. In addition, we outline the responsibilities of the Privacy Commissioner and the Auditor, and explain our independence.

**Basis of opinion**

We carried out the audit in accordance with the Auditor-General's Auditing Standards, which incorporate the New Zealand Auditing Standards.

We planned and performed our audit to obtain all the information and explanations we considered necessary in order to obtain reasonable assurance that the financial statements did not have material misstatements, whether caused by fraud or error.

Material misstatements are differences or omissions of amounts and disclosures that would affect a reader's overall understanding of the financial statements. If we had found material misstatements that were not corrected, we would have referred to them in the opinion. Our audit involved performing procedures to test the information presented in the financial statements. We assessed the results of those procedures in forming our opinion.

Audit procedures generally include:

Note: The reference to pages 8 to 29 within the Audit Report refer to pages XX to XX of the Financial Statements as they appear in the Annual Report.



## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

- ▲ determining whether significant financial and management controls are working and can be relied on to produce complete and accurate data;
- ▲ verifying samples of transactions and account balances;
- ▲ performing analyses to identify anomalies in the reported data;
- ▲ reviewing significant estimates and judgements made by the Privacy Commissioner;
- ▲ confirming year-end balances;
- ▲ determining whether accounting policies are appropriate and consistently applied; and
- ▲ determining whether all financial statement disclosures are adequate.

We did not examine every transaction, nor do we guarantee complete accuracy of the financial statements.

We evaluated the overall adequacy of the presentation of information in the financial statements. We obtained all the information and explanations we required to support the opinion above.

### Responsibilities of the Privacy Commissioner and the Auditor

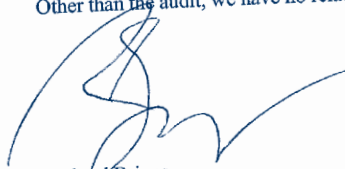
The Privacy Commissioner is responsible for preparing financial statements in accordance with generally accepted accounting practice in New Zealand. Those financial statements must fairly reflect the financial position of the Privacy Commissioner as at 30 June 2004. They must also fairly reflect the results of its operations and cash flows and service performance achievements for the year ended on that date. The Privacy Commissioner's responsibilities arise from the Public Finance Act 1989 and Health and Disability Commissioner Act 1994.

We are responsible for expressing an independent opinion on the financial statements and reporting that opinion to you. This responsibility arises from section 15 of the Public Audit Act 2001 and section 43(1) of the Public Finance Act 1989.

### Independence

When carrying out the audit we followed the independence requirements of the Auditor-General, which incorporate the independence requirements of the Institute of Chartered Accountants of New Zealand.

Other than the audit, we have no relationship with or interests in the Privacy Commissioner.



Richard Briggs  
Audit New Zealand  
On behalf of the Auditor-General  
Hamilton, New Zealand





## STATEMENT OF ACCOUNTING POLICIES FOR THE YEAR ENDED 30 JUNE 2004

---

### REPORTING ENTITY

These are the financial statements of the Privacy Commissioner, a Crown entity in terms of the Public Finance Act 1989.

These financial statements have been prepared in accordance with section 41 of the Public Finance Act 1989.

In addition, the Privacy Commissioner has reported the funding administered on behalf of the Crown as notes to the financial statements.

### MEASUREMENT BASE

The financial statements have been prepared on an historical cost basis.

### ACCOUNTING POLICIES

The following particular accounting policies which materially affect the measurement of financial performance and financial position have been applied:

### BUDGET FIGURES

The budget figures are those approved by the Privacy Commissioner at the beginning of the financial year.

The budget figures have been prepared in accordance with generally accepted accounting practice and are consistent with the accounting policies adopted by the Privacy Commissioner for the preparation of the financial statements.

### REVENUE

The Privacy Commissioner derives revenue through the provision of outputs to the Crown, for services to third parties and income from its investments. Such revenue is recognised when earned and is reported in the financial period to which it relates.

### GOODS AND SERVICES TAX (GST)

All items in the financial statements are exclusive of GST, with the exception of accounts receivable and accounts payable which are stated with GST included. Where GST is irrecoverable as an input tax, then it is recognised as part of the related asset or expense.

### TAXATION

The Privacy Commissioner is a public authority in terms of the Income Tax Act 1994 and consequently is exempt from income tax.

### ACCOUNTS RECEIVABLE

Accounts receivable are stated at their expected realisable value after providing for doubtful and uncollectable debts.

## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

---

### PLANT AND EQUIPMENT

All fixed assets, or groups of assets forming part of a network which are material in aggregate are capitalised and recorded at cost. Any write-down of an item to its recoverable amount is recognised in the statement of financial performance.

### DEPRECIATION

Depreciation is provided on a straight line basis on all fixed assets, other than freehold land and items under construction, at a rate which will write off the cost (or valuation) of the assets to their estimated residual value over their useful lives.

The useful lives and associated depreciation rates of major classes of assets have been estimated as follows:

Furniture and fittings	5 years
Computer equipment	4 years
Office equipment	5 years

### EMPLOYEE ENTITLEMENTS

Annual leave and other entitlements that are expected to be settled within 12 months of reporting date, are measured at nominal values on an actual entitlement basis at current rates of pay.

There are no entitlements that are payable beyond 12 months, such as long service leave and retirement leave.

### LEASES OPERATING LEASES

Leases where the lessor effectively retains substantially all the risks and benefits of ownership of the leased items are classified as operating leases. Operating lease expenses are recognised on a systematic basis over the period of the lease.

### FINANCIAL INSTRUMENTS

The Privacy Commissioner is party to financial instruments as part of its normal operations. These financial instruments include bank accounts, short-term deposits, debtors, and creditors. All financial instruments are recognised in the statement of financial position and all revenues and expenses in relation to financial instruments are recognised in the statement of financial performance.

### STATEMENT OF CASH FLOWS

Cash means cash balances on hand, held in bank accounts, demand deposits and other highly liquid investments in which the Privacy Commissioner invests as part of its day-to-day cash management.

Operating activities include all activities other than investing and financing activities. The cash inflows include all receipts from the sale of goods and services and other sources of revenue that support the Privacy Commissioner's operating activities. Cash outflows include payments made to employees, suppliers and for taxes.



## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

---

Investing activities are those activities relating to the acquisition and disposal of current and non-current securities and any other non-current assets.

### INVENTORIES

Inventories are valued at the lower of cost (determined on a first in first out basis) and net realisable value. The valuation includes allowances for slow moving and obsolete inventories.

### CHANGES IN ACCOUNTING POLICIES

There have been no changes in accounting policies since the date of the last audited financial statements.

All policies have been applied on a basis consistent with previous years.

### STATEMENT SPECIFYING FINANCIAL PERFORMANCE

The Privacy Commissioner agreed the following financial targets with the Minister at the beginning of the year:

Specified financial performance	Target* 000	Achievement 000
Operating Grant	2,501	2,501
Total Revenue	2,604	2,610
<b>Total Expenditure</b>	<b>2,538</b>	<b>2,406</b>

## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

### STATEMENT OF OBJECTIVES AND SERVICE PERFORMANCE

#### OUTPUT 1 – CODES OF PRACTICE

To issue and, as appropriate, review codes of practice.

QUANTITY	
Release proposed credit information privacy code for formal consultation and subsequent issue	Achieved
Release proposed amendment to the Justice Sector Unique Identifier Code for formal consultation	Not achieved
Consider any other application for a code or any which the Commissioner should initiate (may include statistical data integration)	Partly achieved Considered application for amendment to Telecommunications Privacy Code considered and initiated No progress on developing statistical integration code proposal

QUALITY	
All proposals for Codes of Practice will be the subject of public consultation and consultation with stakeholders	Achieved
All issued codes are referred to the Regulations Review Committee of the House of Representatives	Achieved

TIMELINESS	
Proposed Credit Information Privacy Code released for formal public consultation not later than September 2003 with a view to issue by June 2004	Partly achieved Code notified in July 2003 but had not been issued by June 2004
Proposed amendment to Justice Sector Unique Identifier Code to be released for formal public consultation not later than September 2003	Not achieved Amendment had not been notified by June 2004

VALIDATION	
Hard copies of relevant Codes and / or consultation documents	



**OUTPUT 2 – LEGISLATION**

To assess the privacy impact of proposed legislation and to contribute to the assessment of the privacy impact of other significant proposals.

<b>QUANTITY</b>	
Review of the Privacy Act	
(i) To assist Ministry of Justice in pursuing white list status from the European Union	No progress – awaiting consultation with Ministry of Justice
(ii) To progress changes to the Act	Achieved Two supplementary reports given updating recommendations on changes to the Act
(iii) To support Ministry of Justice work on the review of the Act	Achieved Two supplementary reports given updating recommendations on changes to the Act
To continue to provide first class practical advice to departments on privacy issues and fair information practices arising in proposed legislation and in administrative proposals. Where requests are made for substantial and urgent advice to seek departmental contributions to cost of employment of contractors	Achieved Advice was given to departments orally and in writing. Some requests for contributions will be fulfilled in following year
To complete reports to Minister on new bills when warranted, to meet the requirements of the Parliamentary process	Partly achieved Two reports on bills submitted (both in relation to an information matching programme)

<b>QUALITY</b>	
To internal professional standards.	Achieved
To act on feedback obtained from recipients of advice.	Advice tailored to particular circumstances. Feedback is included in discussion papers and considered for inclusion in reports by the Commissioner

<b>TIMELINESS</b>	
Within the resources of the Office, to give advice within a time span that will enable it to be useful to the recipient	Partly achieved Occasionally external deadlines have been missed. Pressure on resources has meant that many requests for advice have been refused or responded to in a general context

<b>VALIDATION</b>	
Hard copies of reports	
Evidence that advice is sent within agreed timelines	

## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

### OUTPUT 3 – INFORMATION MATCHING

To monitor and report on information matching, and  
 To review statutory authorities for information matching

QUANTITY	
New information matching programmes	
(i) To consider and prepare reports and assist departments in relation to two new information matching programmes	Exceeded Considered and assisted departments in relation to more than two new matches. Submitted two formal reports covering six new programmes
(ii) To examine and report to Parliament in accordance with section 13(1)(f) on proposed information matching programmes <u>Note:</u> Due to the demand of new matching programmes it may not be possible to complete a formal report on all proposed new programmes without recovery of costs from the relevant department	Not achieved The two reports submitted did not cover all new programmes in the course of authorisation during the year
To endeavour to monitor and report on 15 operating authorised information matching programmes <u>Note:</u> The Commissioner may not be able to comply with statutory duties in respect of reporting on programmes for which no baseline funding has been approved	Exceeded 24 operating programmes reported upon in November 2003
To publish two information matching bulletins	Achieved
To complete section 106 reviews in respect of a further 3 information matching programmes	Not achieved Demands on limited resources restricted our ability to achieve this output
To continue to seek funding from departments as benefiting from information matching programmes so that the monitoring is regarded as akin to an auditing function paid for by the department conducting the match. <u>Note:</u> Performance standards will not be attained in this area with core funding	Partly achieved Agreement reached on alternative method for funding. In consultation with the Ministry of Justice baseline funding has been established to be implemented in 2004/05 year

QUALITY	
Reports to be published will be submitted to relevant departments for comment before publication	Achieved
Feedback from those agencies who receive the information bulletin find it helpful	Achieved

TIMELINESS	
Section 106 reviews will be undertaken on no fewer than 3 matches before 30 June 2004	Not achieved
A report on all information matching programmes will be included in the Annual Report for the period ending 30 June 2004	Achieved
All parties to authorised information matching programmes will receive an information matching bulletin at least twice per year.	Achieved

VALIDATION	
Hard copies of information matching reports Hard copies of information matching bulletins Hard copies of section 106 reviews	



## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

### OUTPUT 4 – COMPLAINTS RESOLUTION AND COMPLIANCE

To handle complaints of interference with privacy, and  
 To consult with the Ombudsman under the Official Information Act and the Local Government Official Information and Meetings Act.

#### COMPLAINTS RESOLUTION AND COMPLIANCE

	ESTIMATION	RANGE	
Number of complaints received	1,000	900 – 1,100	934
Commissioner initiated investigations and s.13 inquiries	5	3 – 8	0
Number of current complaints processed to completion or settled or discontinued	1,150	950 – 1,350	1,168
Complaints resolved, settled or discontinued pre-investigation	750	700 – 800	904
Complaints resolved, settled or discontinued following investigation	250	130 – 370	264
Complaints or appeals submitted to the Director of Proceedings	15	10 – 30	0
Hearings - we are represented at complainant initiated proceedings before the Human Rights Review Tribunal	30	20 - 40	24

QUALITY	
Handling of complaints will be to the internal professional standards	Achieved
All parties receive at least one communication each month regarding their complaint	Not achieved All parties receive a communication acknowledging receipt of a complaint. A majority of parties receive communications at least once a month.
Complainants' and respondents' satisfaction with the process rated in each class as "satisfactory" or better in 90% of responses to a random survey	Not achieved A satisfaction survey was not conducted while the review of the complaints process is being completed
90% of draft opinions will be acceptable to the Commissioner without amendment	Achieved
When a case is concluded by the Human Rights Review Tribunal, the Legal Officer concerned will review the outcome against the work of the Office and report their findings to the Manager Investigations and the Privacy Commissioner	Achieved Copies of Tribunal outcomes distributed to staff and subject of discussion at weekly Investigation Team meetings

TIMELINESS	
Provide a substantive reply in writing within 10 working days of receipt of initial or subsequent correspondence on a complaint	Achieved
50% of all new complaints are completed, settled or discontinued within 6 months of receipt	Not Achieved 45% of all complaints completed within 6 months of receipt
75% of all new complaints are completed, settled or discontinued within one year of receipt for the year ending 2004, increasing to 80% for the year ending 2005	Not Achieved 70% of all complaints completed within 12 months of receipt
Direct contact enquiries are responded to within 8 working hours	Achieved

VALIDATION	
CMS Reports Evidence of processing dates provided through CMS Hard copies of revised "Qualitative and Quantitative Standards for the Investigation of Complaints"	



## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

### CONSULTATION WITH OMBUDSMEN

	ESTIMATION	RANGE	
Provide advice under Official Information Act and Local Government Official Information and Meetings Act to Ombudsmen on references by them	60	50 - 70	32

QUALITY	
The advice is provided by the Commissioner	Achieved
The advice provided is perused by the Ombudsmen and can be challenged by them	Achieved

TIMELINESS	
To provide advice within 20 working days or within 20 days advise the Ombudsmen that a particular matter will require longer consideration	Achieved

VALIDATION	
Hard copies of consultations	



**OUTPUT 5 – EDUCATION**

To increase awareness and understanding of the Privacy Act.

The Office will pursue a range of educational initiatives to promote compliance with the Act.

	ESTIMATION	RANGE	
Education workshops	40	20 – 50	36
Presentations at conferences/seminars	6	4 - 10	7
Case notes published	20	10 - 30	13
The website is maintained	Monthly	10 – 15 pa	Monthly
Enquiries answered	6,000	5,000 - 7000	6,656

QUALITY	
Evaluations show that the expectations of 90% of attendees at workshops were met or exceeded in terms of the quality of presentation, and workshop materials	Achieved
Current information is placed on the website within a month of being made available	Achieved
Handling of enquiries will be to internal professional standards as outlined in Appendix A.	Achieved
Enquirers' satisfaction with the process rated as "good" or better in 90% of cases in a random survey	Not achieved A satisfaction survey was not conducted as many enquirers decline to provide contact details

TIMELINESS	
Workshop timetable distributed 2 times per year.	Achieved
Enquiries in writing responded to within 10 working days	Achieved
Telephone enquiries responded to within 8 working hours	Achieved

VALIDATION	
Records of attendees at workshops	
Copies of conference presentations	
Copies of case notes released	
A date is displayed on the website confirming when it was last updated	
CMS reports of enquiries received	

## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

### OUTPUT 6 – CHANGE MANAGEMENT

Implement change management processes and practices within the complaints function of the Office of the Privacy Commissioner.

Provide the mechanisms for capacity building sufficient to process current complaints in a timely manner

QUANTITY	
Implementation of a case management approach to the management of complaints	Achieved
Increase the number and experience of Officers to handle all enquiries and initial complaints	Achieved Recruitment of additional staff undertaken in July 2003
Simplify and clarify the complaints process, and align staff competency to complaint complexity	Achieved Establishment of complaints complexity system in complaints process. Aligned to performance standards
Establish a complaints process improvement capability	Achieved Complaints Working Group established Triage team established
Influence the external factors that drive performance	Partly achieved Consultation process established with key respondent organisations
Provide management and administrative support for the change process	Achieved
Contract the services of a change management consultant to assist in the process of change	Achieved
Develop procedures and policies to support the complaints function	Partly achieved On going process of improvement

QUALITY	
Actions to be supported in the business plan	Achieved

TIMELINESS	
Actions to commence immediately with completion by 30 June 2004	Achieved



## OUTPUT 7 – LONG STANDING COMPLAINTS

Provide the capability to clear the backlog of long-standing complaints

QUANTITY	
To establish a dedicated team to deal with complaints older than 12 months as at 31 May 2003	Achieved Dedicated team established in Wellington Office to action long standing complaints
To complete action on those long standing complaints by 30 June 2005.	Achieved in line with completing action on long standing complaints by 30 June 2005.

QUALITY	
Handling of complaints will be to the internal professional standards	Achieved

TIMELINESS	
Complaints older than 12 months as at 31 May 2003 to have action completed by 30 June 2005	Achieved in line with completing action on long standing complaints by 30 June 2005.

REPORT OF THE PRIVACY COMMISSIONER 2003-2004

STATEMENT OF FINANCIAL PERFORMANCE  
 FOR THE YEAR ENDED 30 JUNE 2004

	Note	Actual 2004 \$000	Budget 2004 \$000	Actual 2003 \$000
Crown revenue		2,501	2,501	2,052
Other revenue		88	83	109
Interest income		21	20	24
<b>Total operating revenue</b>		<b>2,610</b>	<b>2,604</b>	<b>2,185</b>
Marketing		58	79	109
Audit Fees		10	9	8
Depreciation		20	21	58
Rental Expense		274	314	260
Operating Expenses		488	526	490
Staff Expenses		1,556	1,589	1,322
<b>Total Expenses</b>		<b>2,406</b>	<b>2,538</b>	<b>2,247</b>
<b>Net surplus/(deficit) for the period</b>	<b>1</b>	<b>204</b>	<b>66</b>	<b>(62)</b>

THE ACCOMPANYING ACCOUNTING POLICIES AND NOTES FORM AN INTEGRAL PART OF THESE FINANCIAL STATEMENTS.



## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

---

### STATEMENT OF MOVEMENTS IN EQUITY FOR THE YEAR ENDED 30 JUNE 2004

	Note	Actual 2004 \$000	Budget 2004 \$000	Actual 2003 \$000
Public equity as at 1 July	2	12	12	74
Net surplus/(deficit)		204	66	(62)
Total recognised revenues and expenses for the period		204	66	(62)
Public equity as at 30 June	2	216	78	12

THE ACCOMPANYING ACCOUNTING POLICIES AND NOTES FORM AN INTEGRAL PART OF THESE FINANCIAL STATEMENTS.

REPORT OF THE PRIVACY COMMISSIONER 2003-2004

STATEMENT OF FINANCIAL POSITION  
 AS AT 30 JUNE 2004

	Note	Actual 2004 \$000	Budget 2004 \$000	Actual 2003 \$000
<b>PUBLIC EQUITY</b>				
General funds		216	78	12
<b>TOTAL PUBLIC EQUITY</b>		<b>216</b>	<b>78</b>	<b>12</b>
Represented by:				
<b>ASSETS</b>				
<b>Current assets</b>				
Cash and bank		377	180	114
Receivables and prepayments	3	15	20	6
Inventory		21	35	43
<b>Total current assets</b>		<b>413</b>	<b>235</b>	<b>163</b>
<b>Non-current assets</b>				
Plant & equipment	4	32	28	33
<b>Total non-current assets</b>		<b>32</b>	<b>28</b>	<b>33</b>
<b>Total assets</b>		<b>445</b>	<b>264</b>	<b>196</b>
<b>LIABILITIES</b>				
<b>Current liabilities</b>				
Payables and accruals	5	171	164	131
Employee entitlements	6	58	34	53
<b>Total current liabilities</b>		<b>229</b>	<b>198</b>	<b>184</b>
<b>Total liabilities</b>		<b>229</b>	<b>198</b>	<b>184</b>
<b>NET ASSETS</b>		<b>216</b>	<b>66</b>	<b>12</b>

THE ACCOMPANYING ACCOUNTING POLICIES AND NOTES FORM AN INTEGRAL PART OF THESE FINANCIAL STATEMENTS.



## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

### STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 30 JUNE 2004

	Note	Actual 2004 \$000	Budget 2004 \$000	Actual 2003 \$000
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>				
Cash was provided from:				
Supply of outputs to the Crown		2,501	2,501	2,052
Revenues from services provided		86	82	123
Interest received		21	20	24
Cash was applied to:				
Payments to employees		822	1,589	833
Payments to suppliers		1,551	928	1,337
Net Goods and Services Tax		(47)	(50)	29
<b>Net cash flows from operating activities</b>	<b>7</b>	<b>282</b>	<b>136</b>	<b>-</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>				
Cash was provided from:				
Sales of fixed assets		-	-	-
Cash was applied to:				
Purchase of fixed assets		19	17	11
<b>Net cash flows from investing activities</b>		<b>(19)</b>	<b>(17)</b>	<b>(11)</b>
Net increase (decrease) in cash held		263	119	(11)
Plus opening cash		114	61	125
<b>Closing cash balance</b>		<b>377</b>	<b>180</b>	<b>114</b>
Cash and bank		377	180	114
<b>Closing cash balance</b>		<b>377</b>	<b>180</b>	<b>114</b>

THE ACCOMPANYING ACCOUNTING POLICIES AND NOTES FORM AN INTEGRAL PART OF THESE FINANCIAL STATEMENTS.



## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

---

### STATEMENT OF COMMITMENTS AS AT 30 JUNE 2004

	2004 \$000	2003 \$000
<hr/>		
Capital commitments approved and contracted		
<hr/>		
Non-cancellable operating lease commitments, payable		
Not later than one year	208	192
Later than one year and not later than two years	208	192
Later than two years and not later than five years	485	577
Later than five years	5	72

### OTHER NON-CANCELLABLE CONTRACTS

At balance date the Privacy Commissioner had not entered into any other non-cancellable contracts.

### STATEMENT OF CONTINGENT LIABILITIES AS AT 30 JUNE 2004

Quantifiable contingent liabilities are as follows:

	2004 \$000	2003 \$000
<hr/>		
Total contingent liabilities	-	-



## NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2004

---

### NOTE 1: NET SURPLUS/(DEFICIT)

	2004 \$000	2003 \$000
The net surplus/(deficit) is after charging for:		
Fees paid to auditors		
▲ external audit	10	8
Depreciation:		
Furniture & Fittings	-	-
Computer Equipment	15	53
Office Equipment	5	5
<b>Total Depreciation for the year</b>	<b>20</b>	<b>58</b>
Rental expense on operating leases	274	260

### NOTE 2: PUBLIC EQUITY

▲ General funds	2004 \$000	2003 \$000
Opening balance	12	74
Net surplus/(deficit)	204	(62)
<b>Closing balance</b>	<b>216</b>	<b>12</b>

### NOTE 3: RECEIVABLES AND PREPAYMENTS

	2004 \$000	2003 \$000
Trade debtors	6	5
Prepayments	9	1
<b>Total</b>	<b>15</b>	<b>6</b>

## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

### NOTE 4: PLANT AND EQUIPMENT

	Cost \$000	Accumulated Depreciation \$000	Net Book Value \$000
<b>2004</b>			
Furniture and fittings	38	36	2
Computer equipment	349	335	14
Office Equipment	186	170	16
<b>TOTAL</b>	<b>573</b>	<b>541</b>	<b>32</b>
<b>2003</b>			
Furniture and fittings	38	35	3
Computer equipment	337	321	16
Office Equipment	178	164	14
<b>Total</b>	<b>553</b>	<b>520</b>	<b>33</b>

### NOTE 5: PAYABLES AND ACCRUALS

	2004 \$000	2003 \$000
Trade creditors	29	25
Accrued expenses	142	106
<b>Total payables and accruals</b>	<b>171</b>	<b>131</b>

### NOTE 6: EMPLOYEE ENTITLEMENTS

	2004 \$000	2003 \$000
Annual leave	58	53
<b>Total</b>	<b>58</b>	<b>53</b>
Current	58	53
Non-current	-	-



**NOTE 7: RECONCILIATION OF THE NET SURPLUS FROM OPERATIONS WITH THE NET CASHFLOWS FROM OPERATING ACTIVITIES**

	2004 \$000	2003 \$000
Net surplus/(deficit)	204	(62)
<i>Add (less) non-cash items:</i>		
Depreciation	20	58
Total non-cash items	20	58
<i>Add (less) movements in working capital items:</i>		
Increase in receivables	(1)	24
Decrease in inventory	22	-
Increase in payables	41	(4)
Increase in employee entitlements	4	(16)
Decrease in other provisions	(8)	-
Working capital movements - net	58	4
<i>Add (less) items classified as investing activities:</i>		
Net loss (gain) on sale of assets	-	-
Total investing activity items	-	-
<b>Net cash flow from operating activities</b>	<b>282</b>	<b>-</b>

**NOTE 8: RELATED PARTY INFORMATION**

The Privacy Commissioner is a wholly owned entity of the Crown. The Government significantly influences the role of the Privacy Commissioner as well as being its major source of revenue.

The Privacy Commissioner has entered into a number of transactions with government departments, Crown agencies and state-owned enterprises on an arm's length basis. Where those parties are acting in the course of their normal dealings with the Privacy Commissioner, related party disclosures have not been made for transactions of this nature.

There were no other related party transactions.

## REPORT OF THE PRIVACY COMMISSIONER 2003-2004

---

### NOTE 9: FINANCIAL INSTRUMENTS

The Privacy Commissioner has a series of policies providing risk management for interest rates, operating and capital expenditures denominated in a foreign currency, and the concentration of credit. The Privacy Commissioner is risk averse and seeks to minimise its exposure from its treasury activities. Its policies do not allow any transactions which are speculative in nature to be entered into.

#### CREDIT RISK

Credit risk is the risk that a third party will default on its obligation to the Privacy Commissioner, causing the Privacy Commissioner to incur a loss. Financial instruments which potentially subject the company to risk consist principally of cash, short term investments, and trade receivables.

The Privacy Commissioner has a minimal credit risk in its holdings of various financial instruments. These instruments include cash, bank deposits, New Zealand government stock, and accounts receivable.

The Privacy Commissioner places its investments with institutions that have a high credit rating. It also reduces its exposure to risk by limiting the amount that can be invested in any one institution. The Privacy Commissioner believes that these policies reduce the risk of any loss which could arise from its investment activities. The Privacy Commissioner does not require any collateral or security to support financial instruments.

There is no significant concentration of credit risk.

The maximum amount of credit risk for each class is the carrying amount in the Statement of Financial Position.

#### FAIR VALUE

The fair value of other financial instruments is equivalent to the carrying amount disclosed in the Statement of Financial Position.

#### CURRENCY RISK

Currency risk is the risk that the value of a financial instrument will fluctuate due to changes in foreign exchange rates.

The Privacy Commissioner has no exposure to currency risk.

#### INTEREST RATE RISK

Interest rate risk is the risk that the value of a financial instrument will fluctuate due to changes in market interest rates. There are no interest rate options or interest rate swap options in place as at 30 June 2004 (2003 nil). The Privacy Commissioner has no exposure to interest rate risk.



**NOTE 10: EMPLOYEES' REMUNERATION**

TOTAL REMUNERATION AND BENEFITS	NUMBER OF EMPLOYEES	
	2004 \$000	2003 \$000
110 - 120	1	1
190 - 200	1	1

**NOTE 11: POST BALANCE DATE EVENTS**

There are no non-adjusting events after balance date of such importance that non-disclosure would affect the ability of the users of the financial report to make proper evaluations and decisions.